

RESOLUTION NO. 16-129

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016 FOR THE SUBMISSION TO THE VOTERS OF A QUESTION RELATING TO THE PROPOSED MORGAN HILL RESIDENTIAL DEVELOPMENT CONTROL SYSTEM UPDATE; AND REQUESTING THE ASSISTANCE OF THE COUNTY OF SANTA CLARA BOARD OF SUPERVISORS FOR THE CONSOLIDATION OF THE ELECTION AND TO RENDER SPECIFIED SERVICES TO THE CITY OF MORGAN HILL RELATING TO THE CONDUCT OF THE ELECTION

WHEREAS, the City Council desires to submit to the voters a ballot measure concerning amendments to the General Plan and Zoning Ordinance to adopt an updated Residential Development Control System (RDCS); and,

WHEREAS, the RDCS was originally approved by voters in response to concerns over the amount and pace of residential growth and the impacts of this growth on city services and infrastructure. RDCS ballot measures adopted by City of Morgan Hill voters include the following:

1. Measure E (1977), which set a target population of 30,000 for year 2000 and established the RDCS.
2. Measure P (1990), which refined the RDCS and established a population ceiling of 38,800 for 2010.
3. Measure C (2004), which again refined the RDCS and set the population ceiling to 48,000 for 2020.
4. Measure F (2006) and Measure A (2009), which established exemptions for units constructed Downtown.; and,

WHEREAS, the City has between January 2013 and June 2016 conducted a process (Morgan Hill 2035) to prepare an update to the RDCS and the General Plan, including multiple community meetings and/or public hearings by the General Plan Advisory Committee, RDCS Working Group, Planning Commission, and City Council; and

WHEREAS, the purpose of the proposed Morgan Hill Residential Development Control System update is to achieve the following objectives:

1. Establish a limit on the amount and rate of residential growth in Morgan Hill through 2035.
2. Encourage high quality residential development that enhances residents' quality of life.

3. Ensure that new residential development does not adversely impact the level of public services and infrastructure provided for current and future residents.
4. Promote a diverse stock of high quality housing to meet the full range of housing needs within Morgan Hill.
5. Encourage new residential development to contribute community benefits that enhance the public health, safety, and welfare.
6. Encourage an orderly, efficient, and sustainable residential development pattern.
7. Advance the goals and policies of the General Plan and Downtown Specific Plan.
8. Provide certainty to residents that residential development patterns will reflect local goals and values; and

WHEREAS, the proposed update was considered by the Planning Commission at its regular meetings of June 14, 2016 and June 28, 2016, at which time the Planning Commission recommended that the City Council proceed with an update to the RDCS; and

WHEREAS, the proposed update was considered by the City Council at its regular meeting of July 27, 2016; and

WHEREAS, testimony received at a duly-noticed public hearing along with other materials have been considered in the review process; and

WHEREAS, the City of Morgan Hill desires to request the Registrar of Voters to designate a letter for the measure other than "C," "E," "F," and "P" to avoid confusion with prior City measures and other than "F" to avoid potential inflammatory references as a result of the assignment of "F."

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Morgan Hill, California, on Tuesday, November 8, 2016 a General Municipal Election for the purpose of submitting the following measure:

Shall a measure be adopted to amend the Morgan Hill General Plan and Municipal Code to update the City's voter-approved Residential Development Control System (RDCS) to extend it to 2035, establish a population ceiling of 58,200, with a slower rate of growth than currently exists, and improve policies to maintain neighborhood character, encourage more efficient land use, conserve water, and preserve open space?	YES
	NO

SECTION 2. The text of the ballot measure referenced above, is attached hereto as Attachment 1 and the City Clerk is directed to transmit a copy of the measure to the City Attorney for preparation of an impartial analysis of the measure showing its effect on existing law and the operation of the measure and stating that it was placed on the ballot by the City Council. The impartial analysis shall be submitted to the City Clerk no later than August 18, 2016.

SECTION 3. In accordance with Elections Code section 9280, the entire text of the measure referenced in Section 1 and Section 2 above, shall not be placed in the voter information sample ballot and instead there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: "The above statement is an impartial analysis of the Ordinance of The City of Morgan Hill Updating and Extending the City's Residential Development Control System until the year 2035 by amending the General Plan and Chapter 18.78 of the Municipal Code. If you desire a copy of the measure, please visit <http://www.morgan-hill.ca.gov/> or call the City Clerk at (408)779-7271 and a copy will be mailed or e-mailed at no cost to you." In addition, a copy of the text shall be available without charge at City Hall, on the City website, and by mail upon request.

SECTION 4. The ballots to be used at the election shall be in form and content as required by law.

SECTION 5. The City Clerk is authorized, instructed and directed to contract for the procurement and furnishing of any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 6. The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in §14401 of the Elections Code of the State of California.

SECTION 7. Pursuant to the requirements of §10403 of the Elections Code of the State of California, the Board of Supervisors of the County of Santa Clara is hereby requested to consent and agree to the consolidation of the General Municipal Election to be held on Tuesday, November 8, 2016, for the purpose of submitting a ballot measure to the voters of the City of Morgan Hill.

SECTION 8. The City of Morgan Hill requests the services of the Board of Supervisors of the County of Santa Clara and the Registrar of Voters to conduct the General Election and to consolidate such election. The Registrar of Voters is requested to provide all necessary election services and to canvass the returns of the General Municipal Election.

SECTION 9. The City of Morgan Hill shall reimburse the County of Santa Clara for services performed when the work is completed and upon presentation to the City of Morgan Hill of a properly approved bill.

SECTION 10. The vote requirement for this measure to pass is a majority (50%+1) of the votes cast.

SECTION 11. The City Council authorizes all members of the City Council to file written argument(s) In Favor of, or Against the measure described in Section 1 above, not exceeding 300 words, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the referendum may be submitted to the City Clerk.

SECTION 12. The primary arguments for and against the referendum shall be submitted to the City Clerk by five o'clock p.m. on August 11, 2016 in order to meet the deadline established by the Santa Clara County Registrar of Voters for primary arguments. The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument to be provided by the City Clerk.

SECTION 13. In accordance with Elections Code section 9285(b), the City of Morgan Hill hereby authorizes the filing of rebuttal arguments as set forth below and in accordance with state law.

The elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the referendum and a copy of an argument against the referendum to the authors in any argument in favor of the referendum immediately upon receiving the arguments.

The author or a majority of the authors of any argument relating to the referendum may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

A rebuttal argument may not be signed by more than five authors.

The rebuttal arguments shall be filed with the City Clerk, signed with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers, not more than 10 days after the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement to be provided by the City Clerk and to be filed by the author(s) of the argument.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

Rebuttal arguments for and against the measure shall be submitted to the City Clerk by five o'clock p.m. on August 18, 2016 in order to meet the deadline established by the Santa Clara County Registrar of Voters for rebuttals.

SECTION 14. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

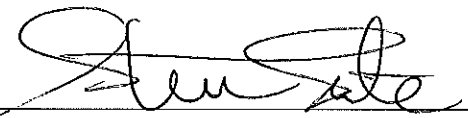
SECTION 15. This resolution is adopted as part of the Morgan Hill 2035 General Plan Update (Update) approved by the City Council on July 27, 2016 in conjunction with the City Council's certification of the Environmental Impact Report for that Update on the same date.

SECTION 16. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 17. The City Council authorizes the City Clerk or other authorized person to submit a "Measure Lettering Justification Form" to the Registrar of Voters Office justifying why particular letters should not be assigned to a specific measure.

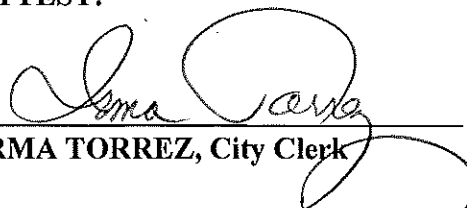
PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 27th day of July, 2016 by the following vote:

AYES:	COUNCIL MEMBERS:	Larry Carr, Marilyn Librers, Gordon Siebert, Steve Tate
NOES:	COUNCIL MEMBERS:	Rich Constantine
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None


STEVE TATE, Mayor

DATE: 8/2/2016

ATTEST:


IRMA TORREZ, City Clerk

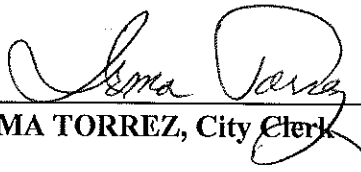
DATE: 8/2/2016

∞ CERTIFICATION ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No.16-129, adopted by the City Council at the meeting held on July 27, 2016.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: 8/2/2016


IRMA TORREZ, City Clerk

ATTACHMENT 1

**AN ORDINANCE OF THE CITY OF MORGAN HILL UPDATING AND EXTENDING
THE CITY'S RESIDENTIAL DEVELOPMENT CONTROL SYSTEM UNTIL THE
YEAR 2035 BY AMENDING THE GENERAL PLAN AND CHAPTER 18.78 OF THE
MUNICIPAL CODE**

The people of the City of Morgan Hill do hereby ordain as follows:

I. PURPOSE AND FINDINGS

- A. Since 1977 the City of Morgan Hill ("the City") has had in place a Residential Development Control System ("RDCS"), which sets a target future population for the City and provides a method for evaluating proposed residential developments and issuing a limited number of development allotments each year. The RDCS has helped to assure that residential development pays for itself and that the rate of development does not outstrip the availability of public services and infrastructure to serve the City's residents. The system was first enacted by the voters through Measure E in 1977, subsequently refined and extended through Measure P in 1990, and further updated and extended by Measure C in 2004. The RDCS was amended by Measure F in 2006 and Measure A in 2009 to provide exemptions for units constructed downtown. By the terms of Measure C, the RDCS remains in effect until fiscal year 2019/20, and can be amended only by a vote of the people. By this RDCS Update, the voters of the City are updating and amending and extending the RDCS until January 1, 2035.
- B. The RDCS has fostered balanced growth in the City. The City has achieved a manageable level of development, and has encouraged more efficient patterns of development by directing growth to areas that are contiguous to existing development and served by adequate infrastructure. The RDCS has helped the City to preserve a diversity of housing opportunities, including a good stock of high-quality affordable housing, for its residents. In the 2007-14 Housing Element cycle, for example, a significant number of housing units were built, particularly for seniors and the City achieved its quantified housing production objectives for total units. The RDCS has helped to maintain the vitality of the City while preserving its open space resources.
- C. Measure C established a population ceiling of 48,000 for the City in the year 2020. The City's population as of January 1, 2016 is approximately 43,645. In 2016, the City updated its General Plan. In the course of the update the City adopted an updated population ceiling of 58,200 for the year 2035. The updated General Plan retains the 2020 population ceiling and the RDCS through 2019/20 as adopted by Measure C and amended by Measures A and F. This measure would replace those provisions to extend the RDCS to January 1, 2035, set a population ceiling of 58,200 for that date, and adjust the allotment provisions of the RDCS to establish a maximum number of residential allotments available each year, not to exceed 215 allotments per year.
- D. In reviewing the implementation of the numerical formulas and the scoring system of the RDCS, the City has concluded that, while on the whole the system works well and should

be maintained and extended, certain aspects of the RDCS need to be further refined to provide a more consistent number of allotments each year and avoid extreme variations in the amount of residential development that takes place year to year, and otherwise to simplify the administration of the system. This measure amends the RDCS to make these and other refinements.

- E. Beginning in 2013, the City conducted an extensive community engagement process, including numerous General Plan Advisory Committee (GPAC), Planning Commission, City Council, RDCS Update Working Group, general community, and community stakeholder meetings. Through the course of these meetings, participants extensively reviewed the City's current General Plan.
- F. The RDCS Update Working Group met 11 times from May through October 2015. The Working Group meetings were open to the public and provided opportunities for community members to listen to the discussions and to provide comments on the RDCS Update.
- G. The Planning Commission held a series of 5 workshops and 2 study sessions from February through April 2016 that were open to the public. In addition, the City Council discussed the RDCS Update at 4 meetings in the spring and summer of 2016. Over the course of these meetings, public review drafts of the RDCS were published and posted online, each draft revised to reflect the public input received.
- H. The purpose of the updated RDCS is to:
 - 1. Establish a limit on the amount and rate of residential growth in Morgan Hill through 2035.
 - 2. Encourage high quality residential development that enhances residents' quality of life.
 - 3. Ensure that new residential development does not adversely impact the level of public services and infrastructure provided for current and future residents.
 - 4. Promote a diverse stock of high quality housing to meet the full range of housing needs within Morgan Hill.
 - 5. Encourage new residential development to contribute community benefits that enhance the public health, safety, and welfare.
 - 6. Encourage an orderly, efficient, and sustainable residential development pattern.
 - 7. Advance the goals and policies of the General Plan and Downtown Specific Plan.
 - 8. Provide certainty to residents that residential development patterns will reflect local goals and values.
- I. Based on the foregoing, the voters hereby enact this measure amending the General Plan and Chapter 18.78 of the Morgan Hill Municipal Code thereby extending the term of the RDCS, as amended, to January 1, 2035.

II. GENERAL PLAN AMENDMENTS

This measure hereby amends the City of Morgan Hill General Plan adopted by the City Council on July 27, 2016 ("General Plan"). Text to be inserted in the General Plan is indicated in double underlined type (example). Deletions are shown in strikeout font (~~example~~). Text in standard type appears in the General Plan as of the submittal date that is not changed by this measure. The amendments are as follows:

1. The text of the City and Neighborhood Form Element is amended to delete the following description of the RDCS.

~~RESIDENTIAL DEVELOPMENT CONTROL~~

~~The following provisions, enacted by voter initiative Measure P in 1990 and refined and extended by votes of the people of the City in 2004 and 2006 shall apply to all residential development in the City, and to any residential development that requires provision of urban services by the City, to and including fiscal year 2019/20.~~

~~REQUIREMENT OF DEVELOPMENT ALLOTMENTS FOR ALL RESIDENTIAL DEVELOPMENT~~

~~For the years to and including fiscal year 2019/20, no residential development shall be undertaken, and no discretionary permit or building permit shall be issued, in the City of Morgan Hill unless a development allotment has been obtained therefore in accordance with the provisions of this section of the General Plan and the Residential Development Control System (RDCS) set out in the Morgan Hill Municipal Code, except for secondary dwelling units ("granny units") and for a single dwelling unit, on the following conditions: If one unit is proposed on a parcel of sufficient size to accommodate additional units, it may be permitted without an allotment only if a deed restriction is placed upon the parcel which requires allotments to be obtained for any additional dwelling units on that parcel. Furthermore, if more than one continuous parcel is proposed for development by the same individual or entity under the single dwelling unit exemption on each parcel, Residential Planned Development Zoning shall be required for such development. The Residential Development Control provisions of this section shall apply to all types of residential development in the City of Morgan Hill, including single-family (which includes mobile homes) and multi-family housing.~~

~~NUMBER OF DEVELOPMENT ALLOTMENTS~~

~~The population ceiling for the city as of January 1, 2020 is 48,000. This ceiling shall not be increased, regardless of whether additional lands are added to the city or its Urban Service Area. However, if any of the following existing County subdivisions, which are already within the City's Urban Growth Boundary ("Existing County Subdivisions"), are annexed into the City, the population within them shall not count against the 48,000 person population limit: Holiday Lake Estates Unit I, Casalegno's Subdivision (Casa Lane), and El Dorado III (at southwest corner of Hill Road and Diana Avenue).~~

~~Except for the 100 allotments made available by the voters in November 2006 for projects of up to 25 units in the downtown core area defined as from south of Main, north of Dunne, east of Del Monte, and west of the railroad tracks ("Downtown Core"), which are in addition to the usual numbers as determined by this paragraph, the number of allotments shall be determined biennially, using the California Department of Finance's most recently determined figures for the persons per household and total population of the City of Morgan Hill. The State's estimate will be adjusted for any relevant housing backlog not included in its population estimate, any Existing County Subdivision (as defined under the prior paragraph) that has been annexed, and any other quantifiable~~

~~factor which improves the accuracy of the estimate. The adjusted population is then subtracted from 48,000, the result divided by the Department of Finance's most recently determined figure for person per household in Morgan Hill, and then divided by the number of years remaining between the population estimate date and 2020. This gross annual allotment is then reduced for any fiscal year by its previously awarded allotments (awarded in prior years) and the number of exempt units anticipated for that fiscal year.~~

~~Except for the 100 allotments made available by the voters in November 2006, the number of development allotments shall be divided between conventional single family dwellings, mobile homes and multiple family dwellings in a manner determined by the City Council, provided that no less than 33 percent of all allotments shall be awarded to single family dwelling units. The number of affordable/elderly dwelling units shall be assigned in a manner consistent with state law for the total number of allotments to be assigned for that year. The City Council may, if it chooses, further divide the allotments according to geography, price, development size, phasing (including the number of units and timing of allotments required to complete the project), and similar criteria as deemed necessary to provide for the general welfare.~~

~~For the competitions for allotments in fiscal years 2006-07 through 2009-10, the City Council shall reserve a certain number of allotments for projects in the Downtown Area. The number of allotments allocated, and the geographic limits of the Downtown Area for this purpose, shall be determined by the Council. The Council may amend the number of reserved allotments and geographic limits of Downtown for this purpose, and may continue to reserve an appropriate number of allotments to Downtown area projects after the 2009-10 fiscal year. Downtown housing and mixed use projects within the Downtown RDGS Boundary that were awarded allotments in March 2006 may be started and completed earlier than their allotment years. The City Council may establish procedures for scoring and awarding the 100 allotments made available by the voters in November 2006, which may not require a competition but which shall provide that all projects must achieve a minimum score for the project type, and which may allow for flexible project start and completion dates. The City Council may, in any year reserve an appropriate number of allotments per year to vertical mixed use projects, which are not restricted to the Downtown Area.~~

DEVELOPMENT ALLOTMENT APPLICATIONS AND EVALUATIONS

~~Development allotments shall be allocated to proposed developments in accordance with a Residential Development Control System set out in the Morgan Hill Municipal Code. This system shall provide for awards of development allotments based on the number of points scored for all development proposals biennial competition, or outside of a competition but based on requiring projects to achieve a minimum point score, for the special 100 downtown allotments established by the voters in November 2006. The point scale used shall take into account the impact of the proposed development on the following public facilities and services: water supply system, sanitary sewer and treatment plant, drainage and runoff, fire and police protection, traffic and other municipal services.~~

~~Proposed developments shall be awarded points for provision of schools, and related facilities, open space, orderly and contiguous development, public facilities, parks and trails, low income and moderate income housing and housing for the elderly, and diversity of housing types, and for quality of architectural design and site design.~~

~~Small residential developments provide special benefits to the City by encouraging local developers, providing design variety, and promoting utilization of smaller lots. These developments do not impose as high a burden on municipal services as do larger projects, because their demands are incremental and they tend to be infill developments. Such small developments may be unable to compete with larger developments in terms of the levels of amenities provided. In order to treat small developments in a manner reflecting their benefits to the community, the Residential Development Control System shall be designed to provide for small development through appropriate means selected by the City Council, such as a separate small project competition and a more streamlined and less~~

~~costly process.~~

~~In implementing the provisions of the Residential Development Control System and making awards of development allotments, the City Council shall comply with Government Code Sections 66000 et seq. and other relevant provisions of the state Planning and Zoning Law.~~

EMERGENCY SITUATIONS

~~No residential development shall be permitted during a period of emergency or severe impactation of public facilities, as declared by the City Council pursuant to provisions of the Municipal Code. The declaration of an emergency or severe impactation situation may be based on determinations of mandatory water rationing, sewage system operating at 95% capacity, or other endangerment to the public health, safety or welfare. In the event of overcrowding in public school serving Morgan Hill, the City Council shall work with the school district pursuant to Government Code sections 65970 et seq. to seek appropriate mitigation and prevent further overcrowding, including, as authorized by state statute, prohibiting residential development within the overcrowded school attendance area. The Council shall, in implementing this provision, comply with the provisions of Government Code Sections 65858, 65996, and any other applicable provisions of law.~~

OPEN SPACE CONVERSIONS

~~No development allotments shall be awarded for a development proposal pursuant to this chapter and the RDCS unless the public benefits included in the proposal are secured in a permanent and enforceable manner. Lands that are designated for private or public open space, greenbelts, parks, paths, trails, or similar scenic and recreational uses in a residential development allotment application under this section shall, once the application is approved, be limited to the uses specified in the application through the use of permanent dedications, easements, or similar devices.~~

~~With respect to development allotments already awarded, wherever legally possible no further building permits shall be granted for a project until such public benefits specified in the development application, particularly but not exclusively open space dedications, have been secured in a permanent and enforceable manner.~~

~~The lands within the City of Morgan Hill that are designated "Open Space" on the Morgan Hill General Plan Land Use/Circulation Elements map, as amended through November 19, 2003, are hereby reaffirmed and readopted through FY 2019/20. This provision shall not prevent the City Council from designating additional lands as open space.~~

URBAN SERVICE AREA RESTRICTIONS

~~The City of Morgan Hill shall neither apply to LAFCO, nor otherwise request or support, the addition of any land to its Urban Service Area, until such time as the City Council finds that the amount of undeveloped, residentially developable land either within the existing Urban Service Area is insufficient to accommodate five years worth of residential growth beyond that required to accommodate the number of development allotments available in the next competition. The projected rate of growth for purposes of this determination shall be the rate of growth provided for by this section of the General Plan and the RDCS. After making such a finding of space insufficiency, the City may support the addition of land to the Urban Service Area only to the extent necessary to support approximately five or fewer years of growth beyond that required to accommodate the number of development allotments available in the next competition.~~

~~The City Council may formulate standards by which it may make exceptions to the above-stated provision, for desirable infill. Desirable infill is defined as a tract of land not exceeding twenty acres and abutted on at least two sides by the city or abutted on one side by the city and having two other sides within a quarter mile of a city~~

~~boundary (as determined by a perpendicular line drawn from the side of the parcel to the city boundary) and whose inclusion into the Urban Service Area would not unduly burden City services and would beneficially affect the general welfare of the citizens of the city. The standards set up for granting such exceptions must include criteria to prevent repetitively granting exceptions to the same applicant, development, or parcel. The City Council, prior to approving any expansion of the Urban Service Area for desirable in-fill, shall make findings documenting that expansion would not unduly burden City services, and that the expansion would beneficially affect the general welfare of the citizens of the City, as defined in the following paragraph.~~

~~Areas whose addition to the Urban Service Area would be considered to beneficially affect the general welfare of the citizens of the City include those areas that promote orderly and contiguous development by facilitating the provision of infrastructure improvements, or allow for the establishment of public facilities such as parks, schools, or other buildings to be owned or operated by the city, school district, water district, or any other public agency. Infrastructure improvements that would promote orderly and contiguous development are those that connect to the existing infrastructure (for example, the continuation of a dead-end street that would improve traffic circulation patterns), or otherwise complete or complement the existing system. The infrastructure improvements that are the basis of the City's findings that the expansion would beneficially affect the general welfare of the City must be installed, or the land needed for public facilities that are the basis of the City's findings that the expansion would beneficially affect the general welfare of the City must be conveyed to the public agency, within five years of the date the area is added to the Urban Services Area or upon its development, whichever occurs first. The commitment by the applicant to install the infrastructure improvements on which the City's findings are based, or convey the land needed for the public facilities on which the findings are based, must be secured prior to official action adding the area to the Urban Services Area, through a development agreement or other legally binding agreement recorded against the property. The City shall not require an applicant to provide infrastructure or land in a quantity exceeding that which is needed to fully offset and mitigate all direct and cumulative impacts on services and infrastructure from new development proposed by the applicant.~~

~~The City Council may make exceptions to these requirements for, and support the annexation to the City of Existing County Subdivisions as defined in paragraph B, "Number of Development Allotments," of the Residential Development Control provisions of the General Plan.~~

~~This section is not intended to, and shall not be applied to, restrict or constrain the discretion of the LAFCO, nor to prevent any action required by the Knox-Hertzberg Local Government Reorganization Act of 2000 or other state statute or by any Court judgment.~~

~~In order to assure that City services and resources are not unduly burdened, urban sprawl and noncontiguous development must be discouraged. Therefore, for any land added to the Urban Service Area between March 1, 1990 and the effective date of Measure P, December 8, 1990, and not considered "infill" as defined above, the City shall not provide urban services to support any development at a higher density than that provided for in the Santa Clara County General Plan as of March 1, 1990.~~

URBAN SERVICES EXTENSIONS

~~The City of Morgan Hill shall grant no new extensions of urban services for residences beyond its Urban Service Area except in the event that 1) Morgan Hill has entered into a mutual aid or reciprocal emergency agreement for police, fire, or other emergency services to be provided by City facilities on County land; or 2) an owner of an existing development requests an extension due to the failure of an existing septic system or well and the City Council makes a finding that denial of services to that development would have a direct adverse impact on the public health and safety.~~

2. The description of the Open Space Land Use Category in the City and Neighborhood Form Element is amended as follows:

Open Space. This designation applies to land in the City limits and SOI, and includes public parks, private golf courses, and large parcels of land generally 50 acres or more in size. Land designated Open Space is generally meant to remain unimproved and devoted to the preservation of natural resources, managed production of resources, or public health and safety, as well as to complement adjacent, higher density residential and commercial development. Allowed uses include agriculture, outdoor recreation, and a secondary dwelling unit. One single-family home per parcel is allowed, with appropriate permit. ~~The Residential Development Control System requires that lands within the City that are designated Open Space maintain this designation through fiscal year 2019/2020. This provision does not prevent the City Council from designating additional lands as Open Space.~~

3. The policies of the City and Neighborhood Form Element shown below are amended or adopted as follows:

Policy CNF-3.2 Relationship to General Plan. Require the RDCS to implement the goals, and policies of the General Plan as they relate to residential development in Morgan Hill through 2035.

Policy CNF-3.4 Population Limit. ~~Subject to voter approval, plan~~ Plan for a January 1, 2020 2035 population of ~~48,000~~58,200 residents.

Policy CNF-3.9 Annual Allotments. Limit the number of allotments available each year so that as of January 1, 2020 2035 the population of Morgan Hill does not exceed ~~48,000~~58,200.

Policy CNF-3.13 Downtown Set-Asides. Set aside at least 500 allotments for housing within the Downtown Specific Plan boundaries through 2035. Downtown projects do not compete in the RDCS competition – projects consistent with the Downtown Specific Plan, General Plan, and Zoning Code receive allotments on a first-come-first-serve basis.

Policy CNF-3.14 Agricultural Preservation Set-Asides. Set aside at least 300 allotments for housing that may be applied anywhere in the City through 2035. Recipient projects must directly establish permanent agricultural conservation easements within the City Limits or within the City's Priority Agricultural Conservation Area.

Policy CNF-3.15 Voluntary Features. Allow project applicants to incorporate features into projects to receive points on a voluntary basis. These features must exceed the minimum requirements that apply to all development as specified in the General Plan and Zoning Code.

Policy CNF-3.16 Competition Criteria. Award points to projects using criteria that relate to the following:

- Schools
- Location
- Affordable Housing
- Housing Diversity
- Parks and Open Space
- Environmental Protection
- Transportation
- Infrastructure and Services
- Project Quality

Policy CNF-4.8 Land Supply. Include enough land within the Urban Service Area to provide for a minimum of 5 years of urban growth rate, amount, and type of development consistent with the General Plan; review and modify the Urban Service Area boundaries as needed.

4. The following policy of the Natural Resources and Environment Element is amended as follows:

Policy NRE-1.3 Designated Open Space. Maintain land designated as "Open Space" on the Morgan Hill General Plan Land Use Map (Figure CNF-3), ~~in accordance with Measure C, through fiscal year 2019/20.~~

4. The following policy of the Healthy Communities Element is adopted.

Policy HC-1.12 School Availability. The City Council may reduce the number of available residential allotments for an individual RDCS competition year upon making certain findings, including that public infrastructure and services (including schools) are or will be inadequate to accommodate new development.

III. ZONING CODE AMENDMENTS

This measure hereby amends the City of Morgan Hill Zoning Code by replacing the existing text of Chapter 18.78 of the Morgan Hill Zoning Code with the text set forth below. The existing text of Chapter 18.78 that is being replaced by this measure is included for informational purposes as Attachment A.

Chapter 18.78 – Residential Development Control System

Sections:

18.78.010	RDCS Purpose and History
18.78.020	Amendments to RDCS Ordinance
18.78.030	Transitional Provisions
18.78.040	Population Limit
18.78.050	Allotments– General
18.78.060	Downtown and Agricultural Preservation Set Asides
18.78.070	Urban Service Area Boundaries
18.78.080	Competition for Allotments
18.78.090	Competition Categories
18.78.100	Competition Manual
18.78.110	Number of Available Allotments
18.78.120	RDCS Procedures – Application Submittal and Review, Project Scoring, and Award of Allotments [CCA]
18.78.130	Pre-Application Review [CCA]
18.78.140	Project Phasing [CCA]
18.78.150	Land Use Entitlements Required [CCA]
18.78.160	Expiration of Allotments [CCA]
18.78.170	Extensions [CCA]

Note: Sections which may be amended or repealed by the City Council without voter approval are identified with the note “[CCA]” following the section heading.

18.78.010 RDCS Purpose and History

A. Purpose. This chapter establishes requirements for the Morgan Hill Residential Development Control System (RDCS). The purpose of the RDCS is to:

1. Establish a limit on the amount and rate of residential growth in Morgan Hill through 2035.
2. Encourage high quality residential development that enhances residents' quality of life.
3. Ensure that new residential development does not adversely impact the level of public services and infrastructure provided for current and future residents.
4. Promote a diverse stock of high quality housing to meet the full range of housing needs within Morgan Hill.
5. Encourage new residential development to contribute community benefits that enhance the public health, safety, and welfare.
6. Encourage an orderly, efficient, and sustainable residential development pattern.
7. Advance the goals and policies of the General Plan and Downtown Specific Plan.
8. Provide certainty to residents that residential development patterns will reflect local goals and values.

B. History. The RDCS is a continuation and refinement of the voter-approved growth management system first established in Morgan Hill in 1977. The RDCS was originally approved by voters in response to concerns over the amount and pace of residential growth and the impacts of this growth on city services and infrastructure. RDCS ballot measures adopted by the voters include the following:

1. Measure E (1977), which set a target population of 30,000 for year 2000 and established the RDCS.
2. Measure P (1990), which refined the RDCS and established a population ceiling of 38,800 for 2010.
3. Measure C (2004), which again refined the RDCS and set the population ceiling to 48,000 for 2020.
4. Measure F (2006) and Measure A (2009), which established exemptions for units constructed Downtown.
5. Measure [TBD] (2016), which was adopted in conjunction with the City's General Plan Update to further refine the RDCS and set the population ceiling to 58,200 for 2035.

18.78.020 Amendments to RDCS Ordinance

This ordinance (Chapter 18.78 of the Morgan Hill Municipal Code) was adopted by the voters of Morgan Hill in 2016 and may be amended or repealed only with voter approval except as specified in subsections A and B below.

A. Amendments Allowed without Voter Approval. The following sections may be amended by an ordinance duly adopted by the City Council in accordance with state law:

1. 18.78.120 (RDSCS Procedures – Application Submittal and Review, Project Scoring, and Award of Allotments).
2. 18.78.130 (Pre-Application Review).
3. 18.78.140 (Project Phasing).
4. 18.78.150 (Land Use Entitlements Required).
5. 18.78.160 (Expiration of Allotments).
6. 18.78.170 (Extensions).

B. Reorganizing and Renumbering of Municipal Code. The Morgan Hill Municipal Code may be reorganized or readopted in a different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the Municipal Code, provided that the provisions of this ordinance adopted by the voters of Morgan Hill in 2016 remains in the Municipal Code unless earlier repealed or amended by the voters or by the City Council in accordance with subsection A, above.

18.78.030 Transitional Provisions

- A. Replacement of Prior RDSCS Ordinance.** This ordinance repeals and replaces in its entirety the prior RDSCS ordinances, previously codified in Division IV (Residential Development Code) of Title 18 (Zoning) of the Morgan Hill Municipal Code.
- B. Prior Actions Remain Valid.** Any City action taken or approval granted pursuant to the prior RDSCS ordinance is not affected by the enactment of this ordinance. All future actions and approvals shall comply with this ordinance.
- C. Previously Approved Allotments.**
1. Allotments awarded and exercised prior to March 1, 2017 shall remain valid and are not affected by this ordinance.
 2. Allotments awarded prior to March 1, 2017 but which have not yet been exercised shall remain valid until the expiration date established at the time of allotment or as established in the project's Development Agreement. Applicant requests for an extension to the date by which these allotments must be exercised and City action on these requests are governed by Section 18.78.170 (Extensions) of this ordinance.
- D. No Changes to Prior Projects Required.** No provision of this ordinance shall require any change in the plans, construction, or design of the portion of a project which received allotments prior to March 1, 2017.

18.78.040 Population Limit

- A. Maximum Population.** Morgan Hill's population as of January 1, 2035 shall not exceed 58,200.
- B. Ceiling, Not a Target.** The 58,200 population limit is a maximum ceiling, not a target. The City is not required to actively strive to reach 58,200 residents by 2035. Instead, the City shall ensure that Morgan Hill's population does not exceed this limit by 2035 while continuing to meet the full range of housing needs in Morgan Hill.

- C. Limit to all Population Growth.** Morgan Hill's population limit is intended to limit all population growth, including growth from new housing exempt from receiving RDCS allotments as specified in Section 18.78.050.C (Exemptions from Allotments) and set-aside allotments awarded as allowed by Section 18.78.070 (Downtown and Agricultural Preservation Set Asides). The number of allotments available each year and the process to adjust this number is intended to ensure that residential growth from all sources does not result in a population that exceeds the population limit of 58,200 residents in 2035.

18.78.050 Allotments – General.

- A. Allotments Based on Population Limit.** The City Council shall establish a maximum number of residential allotments available each year, not to exceed 215 allotments per year, such that the population in Morgan Hill does not exceed 58,200 as of January 1, 2035.
- B. Allotment Requirement.** A residential allotment authorizes an applicant to apply for land use entitlements and to construct these units should the City approve these entitlements. No residential unit may be developed without first obtaining an allotment, except for exempt units specified in Section C below.
- C. Exemptions from Allotments.** The following types of residential projects may be developed without first receiving any allotments:
1. One single-family home on a lot existing as of March 1, 2017;
 2. Secondary dwelling units;
 3. The conversion of an existing single-family home into a duplex provided that a new detached primary structure is not constructed on the lot or lots;
 4. Assisted living/nursing homes; and
 5. The annexation of existing dwelling units outside of City limits into the City.
- D. Timing of Allotment Use.** To maintain a steady rate of residential development, allotments must be used ("exercised") by a specific date as established in Section 18.78.160 (Expiration of Allotments). Allotments that are not used by the specified date expire and are no longer valid. Projects with expired allotments must reapply for allotments in the same manner as all other new proposed projects requesting allotments.
- E. Rate of Growth.** The Planning Commission shall allocate available allotments each year with the goal of maintaining a steady rate of growth.
- F. Cancellation of Allotment Awards.** The City Council may cancel the process to award allotments upon finding that public services and facilities are inadequate to accommodate additional residential development and that awarding allotments would significantly impact the public health, safety and welfare.

18.78.060 Downtown and Agricultural Preservation Set Asides

- A. General.** Through 2035 a certain number of allotments are set aside for residential projects in Downtown Morgan Hill and for projects that contribute to the City's agricultural preservation goals.
- B. Eligibility.** To be eligible to receive set-aside allotments, a project must receive at least 80 percent of the total maximum score in the RDCS competition criteria.
- C. Competition Not Required.** Eligible projects are not required to compete for set-aside allotments. Instead, allotments are issued to eligible projects by the Planning Commission on a first-come, first-served basis up to the total number of available set-aside allotments each year.
- D. Number of Available Set-Aside Allotments.**
 - 1. Downtown Set-Asides.** Through 2035, 500 allotments are set aside for housing within the Downtown Specific Plan boundaries set forth in the City's General Plan as of July 27, 2016. No more than 100 set-aside allotments are available for downtown projects within a single year.
 - 2. Agricultural Preservation Set-Asides.** Through 2035, 300 allotments are set-aside for housing that may be applied anywhere within the City. Recipient projects must directly establish permanent agricultural conservation easements within the City Limits or within the City's Priority Agricultural Conservation Area. Easements must be established within the City's Sphere of Influence in a manner consistent with the Citywide Agricultural Lands Preservation Program. The number of allotments granted to an eligible project shall be commensurate with the community benefit obtained from the resulting preservation of agricultural lands. No more than 35 set-aside allotments are available for agricultural preservation projects within a single year.

18.78.070 Urban Service Area Boundaries

- A. Allotments within Urban Service Area Only.** The City may approve allotments only for projects located within the City's Urban Service Area boundaries.
- B. Application to Expand Urban Service Area.** The City may apply to the Santa Clara County Local Agency Formation Commission to expand the Urban Service Area boundary of the City to accommodate additional residential development if the City Council first makes all of the following findings supported by substantial evidence on the record of a duly noticed public hearing on the matter:
 - 1.** The expansion is necessary to accommodate the amount, rate, location, and type of residential development envisioned in the General Plan.
 - 2.** The expansion is consistent with any City adopted plans, policies, or ordinances specifying a preferred sequence of future annexations.
 - 3.** Public services and infrastructure are or will be sufficient to accommodate development resulting from the expansion of the Urban Service Area boundary. Additional development will not adversely impact public services and infrastructure, including public schools, the transportation system, parks, police, fire service, storm drainage, wastewater, and water service.

4. The expansion supports an orderly development pattern that prioritizes infill development adjacent to existing development and served by existing public services and infrastructure.
5. The expansion is necessary to accommodate the housing and/or employment needs of Morgan Hill.
6. The expansion promotes fiscal responsibility, cost-effective service delivery, and the City's ability to plan for and adequately maintain urban services over time.

18.78.080 Competition for Allotments

- A. **Annual Competition.** Each year the City may conduct a competition for allotments for development of residential units, except when the City Council cancels the competition allowed by Paragraph D below. Projects exempt from the RDCS competition as specified in Section 18.78.050.C (Exemptions from Allotments) and projects eligible for set-aside allotments as specified in Section 18.78.060 (Downtown and Agricultural Preservation Set Asides) do not participate in the competition.
- B. **Minimum Score.** To be eligible to compete for allotments, a project must receive a minimum score of at least 80 percent of the total maximum score in the RDCS competition criteria.
- C. **Award of Allotments.** The Planning Commission shall award allotments based on a scoring of projects using criteria established by the City Council pursuant to Section 18.78.100 (Competition Manual). The Planning Commission may award a project fewer than the total number of allotments requested by the applicant. In such a case, the Planning Commission may award the surplus allotments to the next highest scoring projects if doing so would help create a more balanced and equitable distribution of allotments and help to achieve the goals of the General Plan.
- D. **Cancellation of Allotment Awards.** The City Council may cancel the process to award allotments upon finding that public services and facilities are inadequate to accommodate additional residential development and that awarding allotments would significantly impact the public health, safety and welfare, or if there is insufficient demand necessary to produce high quality developments.

18.78.090 Competition Categories

- A. **General.** Each year the City Council may establish competition categories for certain types of projects. Projects within a competition category will compete for allotments only with other projects in the same competition category. For each competition category, the City Council shall identify the number of allotments available for projects competing within the competition category.
- B. **Example Competition Categories.** Example of competition categories may include, but are not limited to, projects within the Monterey Road corridor, small projects (less than 15 units), senior housing, vertical mixed use, and multi-family rental.
- C. **Affordable Housing.** When establishing competition categories, the City Council shall ensure that an adequate number of allotments are available for affordable housing projects consistent with the City's Regional Housing Needs Allocation (RHNA) and adopted Housing Element.

18.78.100 Competition Manual

The City Council shall adopt and maintain an RDCS Competition Manual that establishes criteria and point values for the RDCS competition. The Competition Manual shall define terms and provide detail as needed to ensure that the City awards points consistently for all competing projects.

A. Competition Criteria. The Competition Manual shall identify the criteria that the City will use to award allotments to competing projects. Competition criteria in the Competition Manual shall advance the nine City objectives below, which may be modified only with voter approval.

1. **Schools.** Provide safe and convenient access to schools and ensure high quality schools in Morgan Hill.
2. **Location.** Encourage infill development adjacent to existing development and close to existing community services and facilities.
3. **Affordable Housing.** Increase the supply of housing affordable to households of all incomes levels.
4. **Housing Diversity.** Provide a variety of housing types and sizes to meet the range of housing needs within Morgan Hill.
5. **Parks and Open Space.** Provide high quality parks and recreational facilities and protect and preserve open space and productive agricultural land.
6. **Environmental Protection.** Increase energy efficiency, renewable energy, energy conservation, water conservation, habitat protection, and achieve other sustainability goals.
7. **Transportation.** Support a balanced and efficient transportation system for pedestrians, cyclists, public transit, and automobiles that maintains quality of life in residential neighborhoods.
8. **Infrastructure and Services.** Emphasize efficient use of public infrastructure and services.
9. **Project Quality.** Ensure quality design related to general livability, public safety, neighborhood form, site planning, building design, and landscape design.

B. Points. The Competition Manual shall establish points available for competition criteria that advance the City goals identified in Section A above.

1. **Limitations on Number of Points and Changes.** The total number of points for each of the nine objectives above (e.g., schools, location, affordable housing, etc.) shall be no more than 20 percent and no less than 5 percent of the total number of available RDCS competition points. The City Council may adjust the number of points within each objective by no more than 15 percent of the points available within the objective the previous year.
2. **Intent of Points.** Points shall be awarded only for projects that provide for excellence in project design and provide a community benefit that exceeds minimum requirements of the City and other governmental agencies. All projects must comply with City standards established in the General Plan, Municipal Code, and other City rules and regulations together with other applicable laws.

C. Revisions to Criteria and Points. In order to promote long term consistency and reduce uncertainty for applicants for residential development, the City Council shall amend competition criteria and point values in the Competition Manual only when necessary and no more frequently than once a year. The Planning Commission shall recommend to the City Council any revisions to the competition criteria and/or point values. If amended, competition criteria and/or point values shall be established no later than six months prior to the RDCS application submittal deadline.

18.78.110 Number of Available Allotments

- A. Annual Allocations.** Beginning with the competition in year 2017, the City may allocate no more than 215 allotments in any given year for residential development that must compete for allotments. Set-aside allotments as described in Section 18.78.060 (Downtown and Agricultural Preservation Set-Asides) may be awarded in addition to the annual allotment maximum.
- B. Annual Reductions to Available Allotments.** Each year staff shall provide the Planning Commission with an assessment of conditions, per the findings below, that may necessitate a reduction in the number of available allotments. No later than six months prior to the RDCS application submittal deadline each year, the Planning Commission may recommend and the City Council may reduce the number of available allotments for an RDCS competition year upon finding that:
1. Reducing the number of allotments is necessary to prevent a sudden spike in construction of new housing caused by a backlog of awarded allotments which have not yet been exercised.
 2. Public infrastructure and services are or will be inadequate to accommodate the new development. Public infrastructure and services include public schools, the transportation system, parks, police, fire service, storm drainage, wastewater, and water service.
 3. Other conditions are present that necessitate a reduction in the number of available allotments to achieve the RDCS purpose as stated in Section 18.78.010 (RDCS Purpose and History).
 4. Downtown and/or Agricultural Preservation Set-Aside allotments have been issued. The number of annual allotments must be reduced to address the issuance of any set-aside allotments.
 5. There is insufficient demand necessary to produce high quality developments or public benefits.

18.78.120 RDCS Procedures – Application Submittal and Review, Project Scoring, and Award of Allotments [CCA]

- A. Pre-Competition Orientation.** The City shall hold an open pre-competition orientation meeting at least four months prior to the RDCS application submittal deadline. At this meeting the City shall review with prospective applicants the RDCS schedule, application requirements, and competition criteria for awarding points.
- B. Pre-Application Review.** To be eligible to submit an RDCS application, applicants must have completed Pre-Application Review as described in Section 18.78.130 (Pre-Application Review).
- C. Applications.** Applicants shall submit an RDCS application consisting of the information and materials required by the City. Applications shall be submitted on a date determined by the Community Development Director. Applications may not be modified after submittal except as otherwise provided for in this chapter.
- D. General Plan and Zoning Consistency Determination.** After deeming an RDCS application complete, the Community Development Director or the Director's designee shall evaluate each application for consistency with the City's General Plan and Zoning Code and reject any applications which are found to be inconsistent with either the City's General Plan or Zoning Code. The Community Development Director's determination is appealable to the City Council. The City Council may direct the applicant to make modifications to the application and if these modifications bring the application into compliance with the General Plan and Zoning Code the application may continue to compete for allotments.
- E. Staff Scoring of Applications.** After deeming an RDCS application complete and consistent with the General Plan and Zoning Code, the Community Development Director or Director's designee shall recommend point assignments to projects using scoring criteria established by the City Council. City staff shall forward recommended scoring to the Planning Commission.
- F. Planning Commission Hearings – Project Scores.** The Planning Commission shall hold a public hearing to consider the scoring recommendation and to make a final determination of project scoring.
- G. Staff Recommendation – Award of Allotments.** After the completion of the appeal period following the Planning Commission determination of project scoring, the Community Development Director or the Director's designee shall recommend the award of allotments based on the project scoring. City staff shall forward recommended award of allotments to the Planning Commission.
- H. Planning Commission Hearings – Award of Allotments.** The Planning Commission shall hold a public hearing to consider the award of allotment recommendation and to award allotments based on the project scoring. The Planning Commission may award fewer than the total number of allotments requested for a project and may award allotments to lower-scoring projects if doing so would create a more balanced and equitable distribution of allotments and help to achieve the goals of the General Plan.
- I. Appeals.** All decisions of the Planning Commission may be appealed to the City Council pursuant to Municipal Code Chapter 18.64.

- J. Development Agreement.** The City may issue building permits only after the applicant has entered into a Development Agreement with the City confirming the specific development commitments made by the applicant at the time the Planning Commission awarded allotments.

18.78.130 Pre-Application Review [CCA]

- A. Pre-Application Review Requirement.** Applicants may apply for allotments only after completing the Pre-Application Review process. Pre-Application Review is required only once for a development project – projects which previously received allotments and reapply for additional allotments in subsequent competitions are not required to complete Pre-Application Review again prior to reapplication. Significant changes to a project, as determined by the Community Development Director, will require Pre-Application Review.
- B. Project Quality and Consistency.** Pre-Application Review allows City staff to evaluate the overall project quality as well as consistency with the General Plan, any applicable specific plan, the Morgan Hill Municipal Code, Architectural Review Handbook, and other applicable City rules and regulations. Pre-Application Review is intended to help ensure that projects receiving allotments can be built consistent with their approved RDCS application.
- C. Timing and Schedule.** The Community Development Director shall establish a schedule for submittal of materials and City staff review that provides sufficient time for the completion of Pre-Application Review prior to the RDCS application submittal date.
- D. Project Information Required.** Applicants shall submit information and materials for Pre-Application Review necessary to present the project concept and demonstrate compliance with City land use and neighborhood design policies in the General Plan. Detailed architectural plans are not required. Materials submitted for Pre-Application Review become part of the public record and are not confidential.
- E. Multi-Department Review.** The City Planning Division of the Community Development Department, Engineering Division of the Public Works Department, and other City staff involved in the land use entitlement approval process shall participate in the Pre-Application Review.
- F. Review Letter.** After reviewing the submittal and meeting with the applicant, the Community Development Director shall provide applicants with a Pre-Application Review Letter either making a preliminary finding that for the purposes of the RDCS competition the project is consistent with City policies and ordinances, or recommending changes to a project necessary to achieve consistency with those policies and regulations. The Pre-Application Review Letter is not a project approval or final determination by the City as to a project's conformity to City policies and ordinances.
- G. Applicant Response.** Applicants shall submit their Pre-Application Review Letter with their allotment application and any response, if needed, detailing the changes made to the project to address staff comments, or reasons why changes were not possible or desirable.
- H. Planning Commission Consideration.** The Planning Commission shall consider the Pre-Application Review Letter and the applicant's response to the letter when awarding competition points under the Project Quality criteria category.

18.78.140 Project Phasing [CCA]

- A. Multi-Year Allotments.** The Planning Commission may distribute allotments awarded to a single project over multiple years as allowed by this section.
- B. Intent.** Multi-year allotments are intended to support a fair and efficient RDCS process by allowing high quality projects constructed over multiple years to compete one time for allotments.
- C. Eligibility.** The Planning Commission shall have the discretion to determine which projects are eligible for multi-year allotments.
- D. Number of Years.** The Planning Commission may award allotments over a period of up to:
 - 1. Three years for projects with less than 100 units; and
 - 2. Five years for projects with 100 or more units.
- E. Findings.** The Planning Commission may award multi-year allotments to projects only upon finding that:
 - 1. The multi-year allotments will support a steady rate of growth and help to avoid a sudden spike in construction of new housing;
 - 2. The multi-year allotments will help the City to plan for adequate public services and infrastructure to accommodate new development;
 - 3. The City will benefit from requiring the applicant to compete only once to receive allotments for all project phases; and
 - 4. An adequate number of allotments will remain in future years to accommodate a range of housing types to meet Morgan Hill's housing needs.
- F. Use of Allotments.**
 - 1. Multi-year allotments must be exercised by the date specified by the Planning Commission consistent with Section 18.78.160 (Expiration of Allotments).
 - 2. If allotments for one year are not exercised by the specified expiration date, all multi-year allotments awarded to the project shall expire.
- G. Regular Rate of Growth.** Allotments awarded for future years shall be subtracted from the number of allotments available to other projects in those years so as to maintain a regular rate of growth consistent with the RDCS.

18.78.150 Land Use Entitlements Required [CCA]

- A. Authorization to Apply for Entitlements.** An award of an allotment is not an entitlement to develop. Allotments authorize an applicant to apply for land use entitlements and to construct these units should the City approve the required land use entitlements.
- B. Effective Allotment.** Applicants may submit an application for land use entitlements only after receiving an award of allotment. Planned Development Zoning applications may be filed prior to receiving an award of allotment.

- C. Finding of Compliance with Approved RDCS Application.** To approve land use entitlements, the City must find that the project substantially complies with the RDCS application as approved by the Planning Commission.

18.78.160 Expiration of Allotments [CCA]

- A. Exercise of Allotment.** Allotments must be exercised within 30 months of approval or by an alternative date specified in the Development Agreement. An allotment is considered exercised with the recordation of a final map, issuance of a grading permit, or the commencement of construction if no final map or grading permit is required. The City may grant an extension to an allotment only as permitted under Section 18.78.170 (Extensions).
- B. Expiration.** Allotments that are not exercised consistent with the terms above expire the day following the exercise date specified in the Development Agreement.
- C. Reapplication.** Projects with expired allotments must reapply for allotments in the same manner as all other new proposed projects requesting allotments.

18.78.170 Extensions [CCA]

- A. General.** The City may approve an extension to the date by which an allotment must be exercised only as allowed by this section.
- B. Extension Request.** Extension requests shall be submitted in writing to the Community Development Department a minimum of 60 days prior to the allotment expiration date and shall describe how the project meets the extension eligibility criteria in Subsection F below.
- C. Administrative Extension.** For projects that received allotments under the previous RDCS, but have not secured a Development Agreement, the Community Development Director may issue a six month extension.
- D. Number and Duration.** In addition to receiving an Administrative Extension and/or prior extensions under the previous RDCS, a project may receive no more than one extension for a maximum one additional year period. Phased projects may only receive one one-year extension.
- E. Public Notice and Hearing.** The Planning Commission shall review and act on an extension request at a noticed public hearing.
- F. Eligibility Criteria.**
1. The Planning Commission may approve an extension only when the City or other public agency is responsible for a delay in the issuance of permits or granting approvals required to exercise the allotments, or due to an earthquake, flood, fire, or other severe act of nature outside of the applicant's control. It is the applicant's responsibility to provide evidence that the request is consistent with this requirement.
 2. The Planning Commission may not approve an extension for any reason other than in Paragraph E.1 above, including but not limited to difficulties obtaining financing, changes to the project not required by the City or other public agencies, applicant delays responding to requests from the City or other public agency, personal circumstances of the applicant, or changes in property ownership.

- G. Appeals.** Planning Commission denial of a requested extension may be appealed to the City Council. The City Council may grant the appeal only upon finding that the request complies with the eligibility criteria in Paragraph F above.
- H. Effect of Denial.** If a request for extension is denied, the allotments shall expire the day following the exercise date specified in the Development Agreement. Projects with expired allotments must reapply for allotments in the same manner as all other new proposed projects requesting allotments.

IV. IMPLEMENTATION

- A. Effective Date:** Upon the effective date of this measure, March 1, 2017, the General Plan is amended in accordance with Section II and the Zoning Code is amended in accordance with Section III.
- B. Amendments.** Except as otherwise provided in the General Plan policies or Zoning Code provisions set forth above, this measure may be amended or repealed only by the voters of the City of Morgan Hill at a City election. Notwithstanding the foregoing, the General Plan and Zoning Code may be reorganized or readopted in different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates provided that the provisions adopted by section II of this measure shall remain in the General Plan and the provisions adopted by Section III of this measure shall remain in Zoning Code unless earlier repealed or amended by vote of the people of the City of Morgan Hill.
- C. Severability and Interpretation.** This measure shall be interpreted so as to be consistent with all applicable Federal, State, and City laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this measure. The voters hereby declare that this measure, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this measure that can be given effect without the invalid application. This measure shall be broadly construed in order to achieve its purpose. Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this measure are for convenience and organization only, and are not intended to be referred to in construing the provisions of this measure.

Division IV. - Residential Development Code

Chapter 18.78 - RESIDENTIAL DEVELOPMENT CONTROL SYSTEM

Sections:

Article I. - Initiative Provisions

Part 1. - Findings and Purposes

18.78.010 - Findings and purposes—1990.

The people of the city of Morgan Hill, hereinafter called "the city," find and declare as follows:

- A.
 1. Rapid residential growth is a matter of continuing concern to the people of the city;
 2. The burdens on city services and related problems associated with the city's explosive growth between 1975 and 1977 led to the adoption of Measure E by voters of the city in 1977. Measure E set a target population of thirty thousand for the year 2000, and established the residential development control system (RDCS), providing a method for evaluating proposed developments and issuing a limited number of development allotments each year;
 3. Since passage of Measure E, however, the city's population growth rate has remained high and in the last five years has been the highest in Santa Clara County. It has been projected that Morgan Hill will reach its year 2000 population goal of thirty thousand well before the year 2000. In 1988, the city's population grew 6.25 percent, as compared with the county's overall rate of 1.29 percent. The next two fastest growing cities were Milpitas (3.34 percent) and Gilroy (2.97 percent). The city's high rate of development continued in 1989 and has shown no signs of diminishing. Morgan Hill has been, and continues to be, accommodating more than its fair share of regional growth.

- B. Continuing rapid expansion over the last several years and expected future growth in the city threaten to overwhelm the city's ability to provide municipal services. For example:
 - 1. The Morgan Hill Unified School District (MHUSD) has been forced to install temporary classrooms and facilities to handle increased school enrollment and has exceeded school site capacity;
 - 2. The city's sewer capacity is near exhaustion with long lead times to provide for additional capacity;
 - 3. In 1989, a combination of doubling the water rates and voluntary water conservation was necessary to achieve a reduction in water usage for the present city water users; again in March 1990, because of continued water shortages, the Santa Clara Valley Water District has recommended to the city that it reduce water consumption by twenty-five percent;
 - 4. Greatly increased traffic within the city has caused congestion on city streets and at major intersections;
 - 5. Demands on the city's police and fire protection forces continue to increase with the increasing population growth and expansion of the city's area.
- C. Extensive exploitation by developers of exemptions from Measure E requirements has allowed continued high growth rates despite the Measure E controls. Of the nine hundred eight dwelling units scheduled to be built by fiscal year 1990/1991, nearly half (four hundred fifty-two) are exempt from the RDCS. The result has been a widespread impression among the voters of the city that the Measure E limits are not being observed. There is a need to tighten up the loopholes of Measure E.
- D. The provision of Measure E requiring equal numbers of annual development allotments to the areas to the east and west of Monterey Road has led to development allotments being awarded to projects to the west of Monterey Road that scored lower than the scores of rejected applications for projects on the east side of Monterey Road. This provision should be modified.
- E. As a matter of fairness and policy, residential development should pay for itself. Developers must be required to provide funds and improvements necessary to provide all needed services to their development projects.
- F.

Development outside the city boundaries, as well as within the city, adversely affects the city's level of services and quality of life. Proposed developments outside the city's urban service area, for example, would impose additional burdens on schools and city services, and add to traffic congestion in and around the city. In addition, this type of "leapfrog" development, on property not contiguous with existing developed land, contributes to urban sprawl, and can reduce the vitality of the city's urban center. Such leapfrog development should be discouraged, as it is an inefficient way to develop, and opposes greater burdens on the community than "in-fill" development with the city's existing urban service area.

- G. 1. Within the city and its urban service area there are currently about two thousand acres of undeveloped, residentially developable land. This stockpile of land within the boundaries of the city and its urban service area will support twenty-five to thirty years worth of residential development, based on present growth projections. The indiscriminate continued expansion of the city and urban service area boundaries further imbalances the jobs to housing ratio (only one job per 1.6 houses currently), adversely affects the city's ability to maintain its level of services, can adversely affect the quality of life in the city, and is not necessary to meet the city's fair share of regional growth;
2. The people of Morgan Hill are therefore opposed to any further expansions of the city and its urban service area until such time as expansion is needed to support projected growth for the next five years. This five-year horizon is consistent with the provisions of the Santa Clara County General Plan, the South County Joint Area Plan, and the Morgan Hill General Plan;
3. The people of Morgan Hill recognize that under the Cortese-Knox Act, the Local Agency Formation Commission (LAFCo) makes final decisions regarding urban service area boundaries, and that the provisions of the Cortese-Knox Act are controlling. For the purposes of (a) mandating city policy in those instances in which the city has discretion under the Cortese-Knox Act, and (b) advising the LAFCo of the city's position in those contexts in which it is relevant to LAFCo's exercise of its discretion, the people go on record as

opposing further expansion of the boundaries of the city and its urban service area, except as necessary to maintain an area sufficiently large to provide for five years' worth of future growth.

- H. The unique character of the city depends on its rural surroundings. In order to maintain this rural atmosphere, provide a buffer against development and preserve a greenbelt legacy for future generations, the city must take steps to preserve open space and agricultural lands and public parklands in and around the city.
- I. The report dated July 1988, prepared for the city by Economic Research Associates, predicts the city will attain a population of thirty-eight thousand eight hundred by January 1, 2010. This projection is based on a 2.6 percent compounded annual growth rate from 1987 to 2010, a rate that exceeds the present and projected growth rate for Santa Clara County, and more than meets the city's fair share of regional housing needs.
- J. Because city services such as water are finite and limited, and because development on the outskirts of the city causes the delivery of needed services to be more expensive and difficult, the rate of population growth of Morgan Hill should not be increased when lands are added to the city or its urban service area.

(Ord. 1010 N.S. § 1, 1990)

18.78.015 - Findings and purposes—2004.

In approving this initiative measure, the voters of the City of Morgan Hill make the following findings:

- A. Since 1977 the City of Morgan Hill ("the city") has had in place a residential development control system ("RDCS"), which sets a target future population for the City and provides a method for evaluating proposed residential developments and issuing a limited number of development allotments each year. The RDCS has helped to assure that residential development pays for itself and that the rate of development does not outstrip the availability of public services and infrastructure to serve the city's residents. The system was first enacted by the voters through Measure E in 1977, and subsequently refined and extended

through Measure P in 1990. By its terms Measure P shall remain in effect until fiscal year 2009/10, and can be amended only by a vote of the people. By this RDCS update, the voters of the City are extending and updating Measure P.

- B. Under Measure P, the RDCS has fostered balanced growth in the city. The city has achieved a manageable level of development, and has encouraged more efficient patterns of development by directing growth to areas that are contiguous to existing development and served by adequate infrastructure. The RDCS has helped the city to preserve a diversity of housing opportunities, including a good stock of high-quality affordable housing, for its residents. It has helped to maintain the vitality of the city while preserving its open space resources. Accordingly, the people by this initiative measure are extending, through fiscal year 2019/20, the core provisions of the city's General Plan and zoning ordinances relating to the RDCS.
- C. Measure P established a population ceiling of 38,800 for the city in the year 2010. The city's current population is approximately 35,000. In 2001, the city updated its General Plan and incorporated in it an updated population projection of 48,000 for the year 2020. This RDCS update will incorporate the updated 2020 population projection and adjust the allotment provisions of the RDCS accordingly.
- D. The Leroy F. Greene School Facilities Act of 1998 provides for the exclusive means of considering and mitigating impacts of development projects on school facilities and limits the ability of a city to deny approval of a project on the basis that school facilities are inadequate. Conforming amendments to the RDCS are therefore appropriate.
- E. In reviewing the implementation of the numerical formulas and the scoring system of the RDCS, the city has concluded that, while on the whole the system works well and should be maintained and extended, certain aspects of the RDCS need to be further refined to provide a more consistent number of allotments each year and avoid extreme variations in the amount of residential development that takes place year to year, and otherwise to simplify the administration of the system.
- F. Measure P's requirement that one-third of all residential development allotments be awarded to projects on the west side of Monterey Road and one-third on the east side of Monterey Road, with the remaining third anywhere in the city, has

resulted in undesirable effects including projects on the west side of Monterey Road being approved with lower point scores than projects on the east side. This RDCS update would eliminate the required geographical distribution and instead adopt provisions encouraging new residential development in the downtown and near the central portion of the city.

- G. The city adopted a new Downtown Plan in 2003. A major strategy of the Downtown Plan is to encourage an increase in the number of residential units in the downtown area, in order to strengthen the base of support for existing businesses, to provide market support for new businesses, and to establish a viable neighborhood in this central area of the city. This RDCS update will require the reservation of a certain number of allotments for projects in the downtown area through 2010. Reserving allotments for residential projects in the area covered by the Downtown Plan will help to ensure that this strategy is successfully implemented.
- H. Should the city in the future establish an urban limit line or greenbelt, no residential development or expansion of the urban growth boundary or urban service area could be approved pursuant to this RDCS update that is inconsistent with such urban limit line or greenbelt.
- I. Based on the foregoing, the voters hereby enact the provisions set forth in sections 2, 3, and 4 of Ordinance No. 1665, amending the General Plan and Chapter 18.78 of this Code, and extending the terms of Measure P, as amended, through fiscal year 2019/20.
- J. Attached to Ordinance No. 1665 as Exhibit A is a map based on the Morgan Hill General Plan Land Use Diagram. On Exhibit A, the lands within the city designated as open space and retained as open space pursuant to Measure P and this Initiative are highlighted, and the urban service area referred to in this initiative is also illustrated. The map is for reference purposes and is not being adopted or amended by this initiative measure.

(Ord. No. 1665 N.S. § 1 (part), 2004)

Part 2. - Residential Development Control

18.78.020 - Development allotments—Required when.

For the years to and including fiscal year 2019-20, no residential development shall be undertaken, and no discretionary permit or building permit shall be issued, in the city unless a development allotment has been obtained therefor in accordance with the provisions of the general plan and the residential development control system (RDCS) set out in Parts 2 and 3 of this chapter, except secondary dwelling units ("granny units") and one-dwelling-unit developments as provided for below. One-dwelling-unit developments may be permitted without a development allotment, providing the following requirements are met:

- A. If the parcel upon which the one-unit-development is proposed is of sufficient size to accommodate additional units, a deed restriction shall be placed on the parcel which requires allotments to be obtained for any additional unit on the parcel; and
- B. If more than one contiguous parcel is proposed for development by the same individual or entity, or entities with an identity of interest, under the single dwelling unit exemption on each parcel, Planned Development zoning shall be required for such development.

The residential development control provisions of Part 2 of this chapter shall apply to all types of residential development in the city, including single-family (which includes mobile homes) and multifamily housing.

(Amended during 7/08 supplement; Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 2 (A), 1990)

18.78.025 - Downtown exemptions.

- A. Through fiscal year 2019/20, 500 total allotments in a twenty block area of the downtown extending from south of Main, north of Dunne, east of Del Monte Avenue, west of Butterfield, and from south of Dunne, north of Ciolino, east of Del Monte, west of Monterey and from north of Keystone, east 170 feet from Monterey, south of W. Central and west of Monterey, excluding Britton Auditorium ("20 Block Area") shall be exempt from the provisions governing "Residential Development Control" in the

General Plan and RDCS set out in Parts 2 and 3 of this article and shall instead be subject to this section and any policies and procedures adopted pursuant to this section.

- B. To obtain any of the five hundred allotments in the 20 Block Area, developments must enter into a development agreement and must comply with the downtown plan and all applicable rules and regulations in effect at the time of entry into a development agreement, including, but not limited to applicable zoning and planning documents.
- C. For any project which already has allotments and is subject to a binding development agreement, any additional allotments authorized pursuant to this section shall be supplemental to and shall not be substituted for the previously awarded allotments. Further, the new development agreement required by this section shall restate and reaffirm the development commitments made pursuant to any existing development agreement subject to any amendment as may be made pursuant to state law.
- D. The city council shall, as necessary, adopt policies and procedures and amend Article II of this chapter to implement this section.

(Ord. No. 1944 N.S., 5-19-2009)

18.78.030 - Development allotments—Determination and distribution.

- A. The population ceiling for the city as of January 1, 2020, is forty-eight thousand persons. This ceiling shall not be increased, regardless of whether additional lands are added to the city or its urban service area.

If any of the following existing county subdivisions ("Existing County Subdivisions") are annexed into the city, the population within them shall not count against the forty-eight thousand person limit, as set forth below in Section 18.78.030(B): Holiday Lake Estates Unit One, Casalegno's Subdivision (Casa Lane), and El Dorado III. The population of these Existing County Subdivisions shall be determined by multiplying the number of homes in each area by the average number of persons per household as determined by the most recent State Department of Finance estimates. Prior to the enactment of Measure P, Holiday Lake Estates Unit One and Casalegno's Subdivision (Casa Lane) were provided with City water service. The El Dorado III subdivision, at the southwest corner of Hill Road and Diana Ave., was developed in the County, and provided with sewer and water service, in order to

eliminate a significant County health problem. These Existing County Subdivisions are all within Morgan Hill's UGB and were at least ninety-five percent developed as of November 19, 2003.

- B. Except for the one hundred allotments made available by the voters in November 2006 for projects up to twenty-five units in the downtown core area defined as from south of Main, north of Dunne, east of Del Monte, and west of the railroad tracks ("Downtown Core"), which are in addition to the usual numbers as determined by this section 18.78.030, the number of allotments shall be determined biennially using the California Department of Finance's most recently determined persons per household figures and population for the city of Morgan Hill.

The California Department of Finance's population estimate will be adjusted for any relevant housing backlog not included in its population estimate, the population of any existing county subdivision enumerated in subsection 18.78.030(A) that has been annexed, and any other quantifiable factor which improves the accuracy of the estimate. The adjusted population is then subtracted from forty-eight thousand, the result divided by the Department of Finance's most recently determined figure for persons per household in Morgan Hill, and then divided by the number of years remaining between that population estimate date and 2020. This gross annual allotment number is then reduced for any fiscal year by its previously awarded allotments (awarded in prior years) and the number of exempt units anticipated for that fiscal year.

The biennial allotment calculation applies to each fiscal year after the fiscal year in which it is computed. For example, the Spring 2004 computation will be used to set the number of allotments for the competition to be held for fiscal years 2006-07 and 2007-08, as well as to make any positive supplemental adjustments for the previously awarded fiscal years 2004-05 and 2005-06, for projects that competed for 2004-05 and 2005-06 allotments.

- C. Except for the one hundred allotments made available by the voters in November 2006 for projects of up to twenty-five units in the Downtown Core, the number of development allotments shall be divided between conventional single-family dwellings, mobile homes and multiple-family dwellings in a manner determined by the city council; provided, that no less than thirty-three percent of all allotments shall be

awarded to single-family dwelling units. The number of affordable/elderly dwelling units shall be assigned in a manner consistent with state law for the total number of allotments to be assigned for that year. The city council may, if it chooses, further divide the allotments according to geography; price; development size; phasing, including the number of units and timing of allotments required to complete a project; and similar criteria as deemed necessary to provide for the general welfare.

- D. For the competitions for allotments in fiscal years 2006-07 through 2009-10, the city council shall reserve a certain number of allotments for projects in the downtown area. The number of allotments allocated, and the geographic limits of the downtown area for this purpose, shall be determined by the city council and may be amended, as necessary, to reflect changes in circumstances and needs. The council may continue to reserve a certain number of allotments for projects in the downtown area after the 2009-10 fiscal year. Downtown housing and mixed use projects within Downtown RDCS Boundary that were awarded allotments in March 2006 may be started and completed earlier than their allotment years. The city council may establish procedures for scoring and awarding the one hundred allotments made available by the voters in November 2006, which may not require a competition but which shall provide that all projects must achieve a minimum score for the project type, and which may allow for flexible project start and completion dates.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 2 (B), 1990)

18.78.040 - Development allotments—Applications and evaluations.

- A. Development allotments shall be allocated to proposed developments in accordance with a residential development control system set out in Part 3 of this chapter. This system shall provide for awards of development allotments based on the number of points scored for all development proposals within a competition, or outside of a competition but based on requiring projects to achieve a minimum point score, for the special one hundred downtown allotments established by the voters in November 2006. The city may conduct one- or two-year competitions. The city may allocate a portion of the total allotment granted to an applicant as available in the subsequent year (i.e., in the event of a one-year competition, a portion of the allotment is made available in the second year, and in the event of a two-year competition, a portion is made available in the third year). The point scale used shall take into account the

impact of the proposed development on the following public facilities and services: water supply system, sanitary sewer and treatment plant, drainage and runoff, fire and police protection, traffic and other municipal services.

- B. Proposed developments shall be awarded points for provision of schools, related facilities, open space, orderly and contiguous development, public facilities, parks and trails, low-income and moderate-income housing and housing for the elderly, diversity of housing types, and for quality of architectural design and site design.
- C. Small residential developments provide special benefits to the city by encouraging local developers, providing design variety, and promoting utilization of smaller lots. These developments do not impose as high a burden on municipal services as do larger projects, because their demands are incremental and they tend to be in-fill developments. Such small developments may be unable to compete with larger developments in terms of the levels of amenities provided. In order to treat small developments in a manner reflecting their benefits to the community, the residential development control system shall be designed to provide for small development through appropriate means selected by the city council, such as a separate small project competition and a more streamlined and less costly process.
- D. In implementing the provisions of the residential development control system and making awards of development allotments, the city council shall comply with Government Code Section 66000 et seq.
- E. Up to ten allotments per year may be set aside for vertical mixed-use projects, however the city council may set aside a higher number for downtown core small vertical mixed use projects. These reserved allotments may be awarded to projects that receive at least a minimum passing score through a competitive process or on a first-come, first-served basis.

The city council may establish higher minimum passing scores for mixed-use projects and/or consistency with the guidelines for development contained in the city's downtown plan. The city council may allow for a maximum of twenty unused mixed-use allotments to be carried over from year to year, if unused in prior years, for a maximum of thirty units potentially available for distribution in one year under this set-aside. Within the downtown core, the city council may allow for a higher number of unused small mixed use allotments to be carried over from year to year, and may

allow for a higher maximum. Mixed-use projects eligible for allotments under this set-aside shall be no larger than fifteen units. A single development project shall be eligible to receive allotments under this set-aside only once.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 2 (C), 1990)

18.78.050 - Emergency situations—Restrictions on development.

No residential development shall be permitted during a period of emergency or severe impactation of public facilities, as declared by the city council pursuant to provisions of this code. The declaration of an emergency or severe impactation situation may be based on determinations of mandatory water rationing, sewage system operating at ninety-five percent capacity, or other endangerment to the public health, safety or welfare. In the event of overcrowding in any public school serving Morgan Hill, the city council shall work with the school district pursuant to Government Code Section 65970 et seq. to seek appropriate mitigation and prevent further overcrowding, including, as authorized by state statute, prohibiting residential development within the overcrowded school attendance area. The council shall, in implementing this provision, comply with the provisions of Government Code sections 65858, 65996 and any other applicable provisions of law.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 2 (D), 1990)

18.78.060 - Open space conversions.

- A. No development allotments shall be awarded for a development proposal pursuant to this chapter and the RDCS unless the public benefits included in the proposal are secured in a permanent and enforceable manner. Lands that are designated for private or public open space, greenbelts, parks, paths, trails, or similar scenic and recreational uses in a residential development allotment application under Part 2 of this chapter shall, once the application is approved, be limited to the uses specified in the application, through the use of permanent dedications, easements or similar devices.
- B. With respect to development allotments already awarded, wherever legally possible, no further building permits shall be granted for a project until such public benefits specified in the development application, particularly but not exclusively open space

dedications, have been secured in a permanent and enforceable manner.

- C. The lands within the city that are designated "open space" on the city's general plan land use/circulation elements map, as amended through November 19, 2003, are reaffirmed and readopted through fiscal year 2019-20. This provision shall not prevent the city council from designating additional lands as open space.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 2 (E), 1990)

18.78.070 - Urban service area restrictions.

- A. The city shall neither apply to LAFCo, nor otherwise request or support, the addition of any land to its urban service area, until such time as the city council finds that the amount of undeveloped, residentially developable land within the existing urban service area is insufficient to accommodate five years' worth of residential growth beyond that required to accommodate the number of development allotments available in the next competition. The projected rate of growth for purposes of this determination shall be the rate of growth provided for by the general plan and the RDCS, set out in Parts 2 and 3 of this chapter. After making such a finding of space insufficiency, the city may support the addition of land to the urban service area only to the extent necessary to support approximately five or fewer years of growth beyond that required to accommodate the number of development allotments available in the next competition.
- B. The city council may formulate standards by which it may make exceptions to subsection A of this section for desirable infill. "Desirable infill" means a tract of land not exceeding twenty acres and abutted on at least two sides by the city or abutted on one side by the city and having two other sides within a quarter-mile of a city boundary, as determined by a perpendicular line drawn from the side of the parcel to the city boundary, and whose inclusion into the urban service area would not unduly burden city services and would beneficially affect the general welfare of the citizens of the city. The standards set up for granting such exceptions must include criteria to prevent repetitively granting exceptions to the same applicant, development or parcel. The city council, prior to approving any expansion of the urban service area for desirable in-fill, shall make findings documenting that the expansion would not unduly burden city services and that the expansion would beneficially affect the general welfare of the citizens of the city, as defined in the following paragraph.

Areas whose addition to the urban service area would be considered to beneficially affect the general welfare of the citizens of the city include those which promote orderly and contiguous development by facilitating the provision of infrastructure improvements, or allow for the establishment of public facilities such as parks, schools or other buildings to be owned or operated by the city, school district, water district or any other public agency. Infrastructure improvements that would promote orderly and contiguous development are those that connect to the existing infrastructure (for example, the continuation of a dead-end street that would improve traffic circulation patterns) or otherwise complete or complement the existing system. The infrastructure improvements that are the basis of the city's findings that the expansion would beneficially affect the general welfare of the city must be installed, or the land needed for public facilities that are the basis of the city's findings that the expansion would beneficially affect the general welfare of the city must be conveyed to the public agency, within five years of the date the area is added to the urban services area or upon its development, whichever occurs first. The commitment by the applicant to install the infrastructure improvements on which the city's findings are based or convey the land needed for the public facilities on which the findings are based must be secured prior to official action adding the area to the urban services area through a development agreement or other legally binding agreement recorded against the property. The infrastructure or land required to be provided by an applicant shall not exceed that needed to fully offset and mitigate all direct and cumulative impacts on services and infrastructure from new development proposed by the applicant.

The future annexation of one or more of the existing county subdivisions enumerated in Section 18.78.030(A) may be necessary to allow the residents of those areas to receive additional municipal services. Given the developed status and the current provision of municipal services to these subdivisions, any of these existing county subdivisions may be added to the city urban service area and annexed into the city without otherwise meeting the test for desirable in-fill development.

- C. Part 2 provisions of this chapter are not intended, and shall not be applied, to restrict or constrain the discretion of the LAFCo, nor to prevent any action required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 or other state statute or by any court judgment.

- D. In order to assure that city services and resources are not unduly burdened, urban sprawl and noncontiguous development must be discouraged. Therefor, for any land added to the urban service area between March 1, 1990, and the effective date of Measure P, December 8, 1990, and not considered infill as defined in subsection B of this section, the city shall not provide urban services to support any development at a higher density than that provided for in the Santa Clara County general plan as of March 1, 1990.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 2 (F), 1990)

18.78.080 - Urban services extensions.

The city shall grant no new extensions of urban services for residences beyond its urban service area except in the event that:

- A. Morgan Hill has entered into a mutual aid or reciprocal emergency agreement for police, fire or other emergency services to be provided by city facilities on county land; or
- B. An owner of an existing development requests an extension due to the failure of an existing septic system or well and the city council makes a finding that denial of services to that development would have a direct adverse impact on the public health and safety.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1010 N.S. § 2 (G), 1990)

Part 3. - Residential Development Control System

18.78.090 - Application—Procedure and contents—Fees.

- A. An application for a development allotment shall be made to the city planning division on a form provided by the city. Such application shall contain the following information and be accompanied by the following documents:
 - 1. Site utilization map including:
 - a. Vicinity map to show the relationship of the proposed development to adjacent development, the surrounding area and the city,

- b. Site use layout map showing the extent, location and type of proposed residential use or uses, the nature and extent of open space, and the nature and extent of any other uses proposed. The site use layout map is of major importance; the vicinity map may be shown as a small inset map;
 2. Site development plan including lot layout to preliminary subdivision map standards; topography; lot sizes; street alignments showing coordination with city street system; existing and proposed buildings, trees, landscaped areas; open space; bicycle paths, equestrian trails or pathways;
 3. Preliminary architectural plans including typical architectural elevations, types and numbers of dwelling units, proposed color of buildings;
 4. Preliminary grading plans including a general indication of type, extent and timing of grading;
 5. Narrative description of preliminary landscape plans including general indications of planting;
 6. Housing marketability and price distribution including expected ranges of rental amounts or sales prices, low-income and moderate-income housing to be provided, and applicability to housing assistance plan, if any;
 7. Statement regarding how the proposed development will comply with state law requirements regarding the mitigation of impacts of the development on school facilities. Description of other needed public facilities to be provided, if any, such as critical linkages in the major street system, or other vital public facilities;
 8. Development schedule including proposed schedule of development including phasing;
 9. Such other information as may be required by the planning manager.
- B. Each application shall be accompanied by a reasonable fee set by the city council based on the cost to the city of the processing of the application. Such fee is in addition to any other fees such as rezoning fees, annexation fees, etc., and shall not be returned in the event that no development allotment is awarded.
- C. An applicant may file only one application for any given property in any competition.
- D. An application for a development allotment shall be filed with the city planning division on a date determined by the planning manager, which shall be no later than twenty-one months preceding the fiscal year during which the allotments must be utilized.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1022 N.S. § 1, 1991;
Ord. 1010 N.S. § 3 (A), 1990)

18.78.100 - Application—Evaluation by planning officer.

- A. The planning officer (hereinafter referred to as PO) shall review each application and determine whether or not the proposed development conforms to the city's general plan. If the PO determines that a proposed development does not conform to the general plan, the application shall be rejected. The applicant shall be given a notice of such rejection within fifteen days after the submission of his application. Such notice shall be given by the PO by mailing a copy of the notice to the applicant at his address as shown in the application.
- B. Within fifteen days after such notice is mailed, the applicant may appeal the decision of the PO to the city council by filing a written notice of appeal with the city clerk, who shall place the matter on the next available agenda for a regular council meeting. The city council shall consider the appeal at such regular meeting, and shall either affirm the decision of the PO to reject the application on the basis of nonconformity with the plans, reverse the decision by finding that the proposed development is in conformity with the plans, or permit the applicant to modify his proposed development to bring it into conformity with the plans. The decision of the council shall be final and conclusive.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 3 (B), 1990)

18.78.110 - Evaluation procedures—Generally.

Proposed developments found by the PO or city council to conform to the general plan shall be evaluated by the PO and awarded points as set forth in Section 18.78.115. The planning commission shall establish a specific set of standards and criteria to direct the PO in assigning points under each category in sections 18.78.115 and 18.78.120. The PO shall submit his evaluation to the planning commission and the commission shall approve, disapprove or modify the PO's evaluation by simple majority vote.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1010 N.S. § 3 (C) (part), 1990)

18.78.115 - Evaluation procedures—Impact on existing facilities—Point system.

- A. Each proposed development shall be examined for its relations to and impact upon local public facilities and services.
- B. The appropriate city department or outside public agencies shall provide recommendations to the PO and the PO shall rate each development by assigning from zero to two points for each of the following:
 - 1. The ability and capacity of the water system to provide for the needs of the proposed development without system extensions beyond those which the developer will consent to provide (comments of the city director of public works);
 - 2. The ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste of the proposed development without system extensions beyond those which the developer will consent to provide (comments from the city director of public works);
 - 3. The ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development without system extensions beyond those which the developer will consent to provide (comments from the Santa Clara Valley Water District and the city director of public works);
 - 4. The ability of the city-designated fire department to provide fire protection according to the established response standards of the city without the necessity of establishing a new station or requiring addition of major equipment to an existing station, and the ability of the police department to provide adequate patrols for residential and traffic safety without the necessity of acquiring new equipment or personnel (comments from the fire and police departments); and
 - 5. The ability and capacity of major street linkage to provide for the needs of the proposed development without substantially altering the existing street system (the desired target traffic level of service being no worse than "D+" level of service as defined in the 1985 Transportation Research Board Report # 209), except as otherwise allowed in the general plan, and the availability of other public facilities (such as parks, playgrounds, etc.) to meet the additional demands for vital public services without extension of services beyond those provided by the developer (comments from the appropriate department heads).

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 3 (C) (1), 1990)

18.78.120 - Evaluation procedures—Design and amenity criteria.

On quality of design and extent of contribution to public welfare and amenities, the PO shall examine each proposed development and shall rate each development by the assignment of no more than the maximum number of points allowable on each of the following:

- A. The provisions of school facilities and amenities, as attested by agreement with the MHUSD, to the extent such consideration is not in conflict with state law25 points;
- B. The provision of public and/or private usable open space and, where applicable, greenbelts20 points;
- C. The extent to which the proposed development accomplishes an orderly and contiguous extension of existing development rather than leapfrog development, by using land contiguous to urban development within the city limits or near the central core and by the filling in on existing utility lines rather than extending utility collectors20 points;

(For purposes of this section, "the central core" is the area illustrated on the central core map, available for viewing at the community development department and described generally as that area bounded on the west by Del Monte Avenue from Wright Avenue to Ciolino Avenue and by West Little Llagas Creek from Ciolino Avenue to Cosmo Street; on the east by the railroad tracks from the easterly prolongation of Wright Avenue to Main Avenue, by Butterfield Boulevard from Main Avenue to Dunne Avenue and by Church Street from Dunne Avenue to the easterly prolongation of Cosmo Street; on the north by Wright Avenue and its easterly prolongation to the railroad tracks; and on the south by Cosmo Street and its easterly prolongation to Church Street.)

- D. The provision of needed public facilities such as critical linkages in the major street system, or other vital public facilities10 points;
- E. Provision of parks, foot or bicycle paths, equestrian trails or pathways10 points;
- F. The provision of units to meet the city's need for low-income and moderate-income and elderly housing and the extent to which such provision meets the goals of the housing element of the general plan including the distribution of

- housing types to provide neighborhoods of ethnic and economic diversity15 points;
- G. The extent to which the proposed development itself consists of a diversity of housing types to meet the goals of the housing element of the general plan15 points;
- H. Architectural design quality as indicated by the quality of construction and by the architectural elevations of the proposed buildings judged in terms of architectural styles, size and height15 points;
- I. Site design quality as indicated by lot lay out, orientation of the units on the lots, and similar site design considerations15 points;
- J. Site and architectural design quality as indicated by the arrangement of the site for efficiency of circulation, on-site and off-site traffic safety and privacy15 points;
- K. Site and architectural design quality as indicated by the amount of private safety and security provided in the design of the individual structures10 points;
- L. Site and architectural design quality as indicated by the amount and character of landscaping and screening and color of buildings10 points;
- M. Site design quality in adapting the development to the setting, including the preservation of vegetation, trees, natural terrain, and other natural and environmental features10 points;
- N. The extent to which the proposed development exhibits overall project excellence and/or incorporates or otherwise embodies the concepts of livable communities, such as proximity to transit, pedestrian orientation, efficiency of street system, mixed-use, infill and maximization of use of existing infrastructure10 points.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 3 (C)(2), 1990)

18.78.125 - Award and issuance of allotments.

- A. The PO shall notify each applicant of his evaluation under sections 18.78.110 through 18.78.120. Such notice shall be given in writing within seven days after the evaluation has been approved by the planning commission by mailing a copy of such notice to the applicant at his address as shown in his application. At the same time, the PO shall

notify in writing the MHUSD and all other city departments and public agencies which provided input for the evaluation under sections 18.78.110 through 18.78.120 of the result of that evaluation.

- B. Proposed developments which have not been assigned a minimum of seven and one-half points under Section 18.78.115 or a minimum of one hundred sixty points under Section 18.78.120 shall not be given a development allotment, except for micro projects (as defined by the city council) and projects which are one hundred percent affordable, for which the minimum passing score shall be one hundred fifty points.
- C. Subject to the limitations set forth in this subsection and subsection F of this section, proposed developments which have received a minimum of seven and one-half points under Section 18.78.115 and a minimum of one hundred sixty points under Section 18.78.120 (or, for qualifying projects, one hundred fifty points) may be awarded an allotment. Where the number of residential units in proposed developments which have received the required number of points for a development allotment (either by planning commission's determination or by city council's determination on appeal) exceed the numerical limits established by the city council by competition category (micro, small, affordable, large market rate), development allotments for which the council-established numerical limit has thus been exceeded shall be awarded to the highest scoring projects based on the number of points received under Section 18.78.120. A project may be awarded fewer than the total number of allotments requested by it and the surplus allotments awarded to the next highest scoring development(s) if doing so would help create a more balanced and equitable distribution of allotments and help to achieve the goals of the general plan.

In the event that an applicant seeks a higher number of allotments than is available in a competition, the city council may, in its discretion and in order to encourage high-scoring applicants to complete their projects, grant allotments for an additional fiscal year. For a one-year competition, the allotment may be allocated over two years and for a two-year competition, the allotment may be allocated over three years.

- D. Allotments shall be issued no less than sixteen months prior to the start of the first fiscal year in which the allotments must be used. Allotments shall be awarded for no more than three fiscal years in a single competition. Flexible project start and completion dates are allowed for those downtown housing and mixed use projects

awarded allotments in March 2006, and for those projects awarded allotments from the one hundred downtown allotments made available by the voters in November 2006.

- E. Any applicant whose development evaluation has been completed and where any appeals, if applicable, have been resolved and who does not receive an allotment for the competition will not be considered automatically for the subsequent competition but must reapply under Section 18.78.090 for the next or subsequent competition.
- F. If a project receives an allotment in a competition for more than fifty percent of the units in the project but fewer than the total number of units needed to complete it, the additional units needed to complete it may be awarded to the project for the competition year immediately after that covered by the current competition. This additional allotment shall be considered a portion of the limited allotment for that future competition. The number of units awarded under this section for a future competition year shall be similar to the number of units awarded per year for the major portion of the project.
- G. Except as provided in above Sections 18.78.030(B) and (D), 18.78.040 (A) and (E), and 18.78.125(D), which allow for more concentrated and flexible timeframe for downtown housing and mixed use project construction, to ensure that growth is orderly and not sporadic, dwelling units that are allocated for one fiscal year and not physically commenced according to an approved development schedule by the end of that fiscal year, shall lose their allotment and must reapply under the development allotment process outlined in Section 18.78.090 if development is still desired by the developer. An exception to the loss of allotment may be granted by the city council if the cause for the lack of commencement was the city's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental reviews, delays not the result of developer inaction, or allotment appeals processing.

For projects that include the sale of individual lots for custom development by individual purchasers, purchasers of the custom lots shall be given an additional twenty-four months to physically commence construction. If this extension proves insufficient, an applicant for a custom home may apply for an additional extension subject to the same rules and circumstances as outlined in this paragraph for other projects.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 3 (D), 1990)

18.78.130 - Appeal procedures.

- A. An applicant may appeal to the city council for a review of the scoring of its proposed development project pursuant to sections 18.78.110 through 18.78.120 by filing a written notice of appeal with the city clerk within fifteen days after the notice of evaluation has been mailed as described in Section 18.78.125(A).
- B. The MHUSD or other public agencies which provided input for the evaluation under sections 18.78.110 through 18.78.120 may appeal to the city council the evaluation under sections 18.78.115 and 18.78.120 within fifteen days after notice has been mailed as described in Section 18.78.125(A).
- C. Any citizen or group of citizens may appeal to city council the evaluation of any applicant by filing with the city clerk a petition signed by one hundred registered voters of the city within fifteen days after the notice of evaluation has been mailed to the applicant as described in Section 18.78.125(A).
- D. In the event an appeal is filed under subsections A, B or C of this section, the city clerk shall place the matter on the next available agenda for a regular council meeting. The city council shall consider the appeal at such regular meeting at which time the council will hear the applicant or his representative and such other persons as may be able to assist the council in the determination of the matter on appeal. The council may affirm or modify the project scoring and its decision shall be final and conclusive.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 3 (E), 1990)

18.78.140 - Emergency situations—When declared—Action and review by council.

- A. An emergency or severe impact situation shall be any one or more of the following:
 - 1. A finding by the director of public works that the sewage facility usage level exceeds ninety-five percent of the capacity of the system;
 - 2. Mandatory city water-rationing measures in effect;
 - 3. The MHUSD notifies the city council that conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs, pursuant to Government Code Section

65971;

4. Any public agency providing services essential to the public health and safety notifies city council in writing or by resolution that its ability to meet the public needs is severely impacted; and/or
 5. Any other endangerment to public health, safety or welfare which the city council determines to exist for the purposes of Part 3 of this chapter.
- B. If any of these specified conditions exist, then the city council shall certify an emergency or severe impactation situation.
- C. In addition, any citizen or group of citizens may petition the city council for declaration of an imposition of an emergency or severe impactation situation by filing with the city clerk a petition signed by four percent of the registered voters of the city. The city council, at their next available regularly scheduled meeting, must then vote on a resolution of emergency or severe impactation situation. Certification and decertification of a petitioned emergency condition requires a minimum of three affirmative votes for passage.
- D. In the event such an emergency or severe impactation is certified, no building permit and no allotment shall be issued unless the city council first specifically finds that the building permit or specific allotment will not contribute additionally to the existing emergency or severe impactation situation, or that the building permit or specific allotment has adequately mitigated its additional impact.
- E. The PO shall review all certified emergency or severe impactation situations at least quarterly, and shall determine whether conditions warrant continuation of the emergency or severe impactation. The PO shall report his findings to the city council, and notice of such findings shall be placed on the city council agenda and published in a newspaper of general circulation. If the city council finds, based on the PO's report, that the certified emergency or severe impactation situation no longer exists, it shall decertify the emergency.
- F. In implementing Part 3 of this chapter, the city council shall comply with the provisions of Government Code sections 65858, 65972, 65996 and other applicable state law requirements. Where those provisions conflict with this chapter, the state statute shall prevail.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 § 3 (F), 1990)

18.78.150 - Quarterly progress review—Failure to comply.

- A. The planning officer shall review, on a quarterly basis, each proposed development which has received a development allotment to determine whether satisfactory progress is being made with the processing of the appropriate plans with the planning division.
- B. Should a developer fail to comply with the development schedule submitted with his application or as agreed with the city staff and council, or should he fail to initiate the processing of the appropriate plans, or should the development deviate below the points awarded for its initial application, the PO shall report such failure or deviation to the city council. Thereafter, the council, after holding a hearing, may rescind all or part of the development allotment in favor of another development that has qualified for such allotment and that is capable of commencement in the year for which the allotment was awarded.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 3 (G), 1990)

Part 4. - General Provisions

18.78.155 - Duration of provisions.

This chapter shall remain in effect until and including fiscal year 2019-20.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 5, 1990)

18.78.160 - Compliance with state and federal laws.

The provisions of this chapter shall not apply to the extent, but only to the extent, that they would violate the Constitution or laws of the United States or the state of California.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1010 N.S. § 6, 1990)

18.78.165 - Severability.

- A. If any provision or application of any provision of this chapter is held unconstitutional or violative of any state or federal law, the invalidation shall not affect the validity of any other provision or application of any provision. The voters of Morgan Hill declare that the provisions and applications of the provisions of this chapter are severable and would have been enacted as they were even though any other provision or application or applications are held unconstitutional or otherwise violative of law.
- B. It is the intent of the voters of Morgan Hill, by enactment of this chapter, to extend and expand the essential residential development control provisions and policies of Measure P. If this chapter is held invalid in its entirety, then Measure P shall remain in effect, as previously codified.
- C. If any provision of Part 2 or 3 of this chapter is held invalid, the remainder of the ordinance codified in this chapter shall be given effect, and to the maximum extent feasible, shall be combined with the provision or provisions of Measure P that correspond to the invalidated provision.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 7, 1990)

18.78.170 - Unconstitutional taking of private property prohibited.

This chapter shall not operate to deprive any landowner of substantially all the market value of his property or otherwise constitute an unconstitutional taking without compensation. If application of the provisions of this chapter to a specific project would effect a taking, then pursuant to this chapter the city council may alter the provisions of this chapter, but only to the extent necessary to avoid such a taking. Any such adjustments shall be designed to carry out the goals and provisions of this chapter to the maximum extent feasible.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1010 N.S. § 8, 1990)

18.78.175 - Amendment or repeal.

This chapter and the "Residential Development Control" section of the general plan were enacted into law by the voters and, accordingly, may be amended or repealed only by the voters of the city at a municipal election.

(Ord. 1816 N.S. § 3 (part), 2006; Ord. 1665 N.S. § 3 (part), 2004; Ord. 1010 N.S. § 9, 1990)

Article II. - Specific Policies

18.78.180 - Background.

- A. The residential development control system was adopted in response to the need to establish a growth rate in Morgan Hill that is conducive to orderly and controlled residential development. The success of any growth-management system depends upon how well it addresses and exemplifies the goals of the general plan, as well as other adopted city ordinances and documents. Any requirements made by this system shall use existing city plans and policies, as well as exploring innovative means to facilitate its implementation.
- B. The residential development control system is a competitive qualifying process intended only to compare projects and allow the highest scoring projects to proceed on in the development process. Developers and city staff should not construe it as a design review or an absolute approval with any entitlement other than the right to file a tentative map or development plan. Changes to the project (1) are encouraged to improve its quality; and (2) may be required for formal project approval.
- C. Concerns have been expressed about the Morgan Hill Unified School District (MHUSD) impaction situation and the fact that the rural character associated with the city is being lost to urban development that is outstripping the city's ability to provide adequate services and facilities. Also, a disproportionate amount of moderate to expensive single-family homes have been built, as opposed to a balance of housing types at prices to meet the needs of all the segments of the population, including those of low or fixed incomes. It is intended that a response to these concerns will be accomplished in a practicable manner through implementation of the residential development control system, which will concurrently address the preservation of open space and the natural environment.

(Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1034 N.S. § 1 (part), 1991; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014)

Editor's note— At the request of the city and per Ord. No. 2110 N.S., § 4(Exh. A), adopted Sept. 17, 2014, §§ 18.78.180.A and 18.78.180.B were superseded by § 18.78.180. Former §§ 18.78.180.A and 18.78.180.B pertained to summary of standards and criteria and

background, respectively. See the Code Comparative Table for a detailed history of derivation of these provisions.

18.78.182 - Rate of growth.

The method by which controlled growth will be accomplished involves building approximately two hundred fifty* new dwelling units annually in order to reach a population not to exceed forty eight thousand people by the year 2020.

(Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1034 N.S. § 1 (part), 1991)

* The number of building allotments authorized under the RDCS may be less than two hundred fifty units per year because of other housing which would be exempt from the RDCS (construction of single dwellings, etc.)

18.78.184 - Procedures.

- A. No later than May of each year preceding an allotment evaluation, the planning officer and planning commission will provide recommendations to the city council regarding the total number and distribution of building allotments. The city council will establish the total number of housing units to be awarded and the number of units to be allotted for each type of housing.
- B. The planning officer will inform interested developers of the total number of units available and the various types of housing units that will be approved. The planning officer will hold a pre-competition meeting with all persons interested in submitting an application. The planning officer will explain the allotment process and distribute applications. At this meeting developers will be encouraged to indicate the proposed project location, the number of units, and the type of housing. This information will assist the city and developers in providing better competition for the various types of housing units to be built under the RDCS process.
- C. In an attempt to further increase the quality of project design, a voluntary preliminary review process shall be implemented. This review process shall have staff priority in the months of June, July, and August whereby responses to these submittals shall be received within four weeks from the date of filing. These responses shall include, but

not be limited to, the following: (1) Section A evaluation; (2) Section B evaluation, (3) any recommendations for project improvement; (4) any public health, safety and welfare issues; (5) any need for any additional information, plans or studies.

(Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1179 N.S. § 1, 1994; Ord. 1034 N.S. § 1 (part), 1991)

18.78.186 - Overview.

- A. The first section (Section 18.78.200) is concerned with the general ability of the city to provide major public facilities and services to new residential projects without creating additional impactation. This section is weighted heavily, meaning that a proposed project must obtain the minimum required points (seven and a half points) and receive minimum passing scores under certain categories in order to proceed to the next step of the evaluation.
- B. The next step, (Section 18.78.210) reflects the quality of the project design and the extent to which it contributes to the welfare of the community. The intent of these criteria is to encourage competition and to promote additional effort which creates innovative designs that satisfy user needs. The standards and criteria in Part 2 of this article are guidelines, and it is important to note that a developer is not precluded from improving upon or augmenting these guidelines, upon approval of the planning officer. Criteria for each category in Part 2 of this article are, therefore, more subjective and, thus, merely points out those items which the developer should consider to maximize his rating.
- C. After successful completion of both Parts 1 and 2, the projects which have received at least seven and a half points in Part 1 and have been given the most points in Part 2 (one hundred sixty points and over, except micro and one hundred percent affordable projects, for which the total score is one hundred fifty points and over) with minimum passing scores in certain categories will then be eligible for allotments and subsequent building permits, subject to Section 18.78.120. Those that may not receive any allotment this year will have an opportunity to improve their designs and reapply during the next competition.
- D. The procedure for allotting development allotments has been incorporated into this system. The development allotment evaluation encourages all developers to locate and design the best project possible by following standards and criteria for both

Sections 18.78.200 and 18.78.210.

(Ord. 1731 N.S. Exh. A (part), 2005: Ord. 1677 N.S. § 1 (part), 2004: Ord. 1034 N.S. § 1 (part), 1991)

18.78.188 - Additional information.

- A. Project Size. Council priority is to give priority to partially completed projects. This policy will allow continuity to the allotment process. The portion of the uncompleted project competing in a competition should be equal to or superior in quality to the original project receiving an allocation. Project applications for over one hundred fifty units will be considered based on benefits to the community.
- B. Public Notices. The council policy of notifying neighboring properties within three hundred feet of proposed projects is expanded to give a greater number of people notice by means of the utility bill inserts and notice on cable TV.
- C. Review of Standards and Criteria. The planning commission shall review the standards and criteria, following an RDSC competition, to determine whether any changes or amendments are necessary for the next competition.

(Ord. 1731 N.S. Exh. A (part), 2005: Ord. 1677 N.S. § 1 (part), 2004: Ord. 1034 N.S. § 1 (part), 1991)

18.78.190 - Evaluation—Standards and criteria.

- A. As provided for in Section 18.78.100 A, the planning officer shall review each application and determine whether or not the proposed development conforms to the City's General Plan. In addition, the planning officer shall review each application for conformance with the following: City street, parking, and site development standards as set forth in Chapter 17.34 and Title 18 of the Morgan Hill Municipal Code. If the PO determines that a proposed development does not conform to the city codes as cited above, the application shall be rejected. Notice of such rejection shall be given pursuant to Section 18.78.100(A).
- B. Within fifteen days after such notice is mailed, the applicant may appeal the decision of the PO to the city council as provided in Section 18.78.100(B). In considering an appeal the city council shall either affirm the decision of the PO to reject the application on the basis of nonconformity with the plans (General Plan and City

Codes), or reverse the decision by finding that the proposed development is in conformity with the plans, or permit the applicant to modify his proposed development to bring it into conformity with the plans.

- C. Proposed developments found by the PO or city council to conform to the General Plan shall be evaluated by the PO and awarded points as hereinafter set forth. The planning commission shall establish a specific set of standards and criteria to direct the PO in assigning points under each category in Parts 1 and 2 of this article. The PO shall submit his evaluation to the planning commission and the commission shall approve, disapprove or modify the PO's evaluation by simple majority vote.

(Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1179 N.S. § 2, 1994; Ord. 1034 N.S. § 1 (part), 1991)

Part 1. - Point System

18.78.200 - Rating system for proposed developments.

Each proposed development shall be examined for its relation to and impact upon local public facilities and services. The appropriate city department or outside public agencies shall provide recommendations to the PO, and the PO shall rate each development by assigning from zero to two points for each of the following:

- A. 1. "The ability and capacity of the water system to provide for the needs of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments of the director of public works.)
- 2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the water system to provide for the needs of the proposed development.

2 Points. The existing water system and improvements that upgrade water service and fire protection in the general neighborhood such as gridding, well, or booster pump, are provided as determined by the director of public works.

1 or 1.5 Points. The existing water system has adequate capacity to serve the development and improvements would tie into existing water mains without gridding or otherwise providing upgrades to the existing water system.

0 Points. The existing water system and improvements necessary for water service or fire protection will tax the existing system beyond the city's ability to provide adequate service.

- B. 1. "The ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the director of public works.)
2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste generated by the proposed development.

2 Points. Existing sewer lines and treatment plant have sufficient capacity to serve the project.

1 or 1.5 Points. Extension of existing sewer lines directly from the project, and the sanitary waste generated by the project which taxes the existing line capacity is mitigated as determined by the director of public works, and there is sufficient capacity in the treatment plant.

0 Points. The proposed development would adversely impact the existing line capacity or treatment plant, or the existing line capacity is insufficient to handle the waste generated by the proposed project (or in any way fails to meet the standards for one or two points).

- C. 1. "The ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the Santa Clara Valley Water District and the director of public works.)
2. Each subdivision application shall be reviewed by the director of public works and Santa Clara Valley Water District for determination of the ability and capacity of the drainage facilities to adequately dispose of the surface runoff

of the proposed development.

2 Points. Local drainage generated by the project is capable of draining into existing storm drainage facility, or a permanent public improvement to carry the runoff into a receiving drainage way which has sufficient capacity is provided.

1 or 1.5 Points. Local drainage generated by the project is mitigated by use of private on-site detention with higher value given for permanence, quality and guaranteed maintenance.

0 Points. Local drainage generated by the project is not capable of draining into the existing permanent storm drainage facility (or in any way fails to meet the standard two points).

- D. 1. "The ability of the city-designated fire department to provide fire protection according to the established response standards of the city without the necessity of establishing a new station or requiring addition of major equipment or personnel to an existing station, and the ability of the police department to provide adequate patrols for residential and traffic safety without the necessity of acquiring new equipment or personnel." (Comments from the fire and police departments.)
2. Each subdivision application shall be reviewed by the fire and police departments for the determination of the ability of the fire department to provide fire protection according to the established response standards and the ability of the police department to provide adequate patrols for residential and traffic safety. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.

1.5 Points. Fire protection response times are within the established response standards of the city from at least two fire stations.

1 Point. Fire protection response times are within the established response standards of the city from at least one fire station and no more than fifteen percent in excess of the response time standard from a second station.

.5 Points. Fire protection response times are within the established response standards of the city from at least one fire station.

0 Points. The project cannot be served by the existing fire personnel without requiring additional stations, equipment or personnel (or in any way fails to meet the standard for a one-half point total above).

.5 Points. The project adjoins existing developed land with proper road access for maximum efficiency of police patrols.

NOTE: For scoring purposes, the city fire department or contract agency, shall publish on July 1 of each competition year, a map showing the area which can be serviced within the established fire response time standard from the California Division of Forestry facility located on Monterey Road at Watsonville Road.

- E. 1. "The ability and capacity of major street linkage to provide for the needs of the proposed development without substantially altering the existing street system (the desired target traffic level being no worse than "D+" level of service as defined in the 1985 Transportation Research Board Report # 209), except as otherwise allowed in the General Plan, and the availability of other public facilities (such as parks, playgrounds, etc.) to meet the additional demands for vital public services without extension of services beyond those provided by the developer." (Comments from the appropriate department heads.)
2. Each subdivision application shall be reviewed by the director of public works and parks and recreation director for determination of the ability and capability of major street linkage to provide for needs of proposed development and of the availability of other public facilities, such as parks and playgrounds, to meet the additional demands. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.

2 Points. The project can be served by the existing parks and street systems, and the completion of the project will not overload any local, collector or arterial street in the immediate area.

1 or 1.5 Points. The project can be served by the existing parks and street systems as defined above, and if there are public off-site improvements, they are relatively minor and the project will not contribute to the need for major street improvements.

0 Points. Compliance to Chapter 17.28 of this code. The project cannot be served by the existing street system, and will contribute to the need for major off-site public improvements (or in any way fails to meet the standard for one or two points).

NOTE: Development may be evaluated on an individual basis on its ability to provide private recreational service for its residents that complement city services, i.e., trails, private open space, association facilities, etc. All proposed trails, private open space and associated facilities should be permanently secured with appropriate documentation at the time of development. (i.e., deeds, easements, C.C.&R's., dedication, homeowners associations, etc.). Land that is set aside for the above mentioned items as a nonpermanent use, could dedicate all future development rights to the city. This procedure is to allow neighborhood control over land that may not be needed in the future (i.e., storm water retention areas).

(Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1228 N.S. § 1, 1995; Ord. 1179 N.S. §§ 3, 4, 1994; Ord. 1034 N.S. § 1 (part), 1991)

Part 2. - Specific Standards and Criteria

18.78.210 - Public schools.

- A. The provision of school facilities and amenities as attested by agreement with the Morgan Hill Unified School District (MHUSD) to the extent such consideration is not in conflict with state law. (twenty-five points).
- B. Standard and criteria:
 - 1. Fourteen points will be awarded for the payment of the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998. Full market value credit will be applied to a direct payment to the MHUSD, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities.
 - 2. Two points will be awarded to projects that are within half-mile radius of an elementary, middle or high school that has capacity to house the number of students that the development would yield as calculated using the student yield

factor from the district's most recent developer fee justification report. The district will annually provide the student yield rate and schools that have available capacity prior to May 1 (Micro projects will be awarded two points).

Note: For multi-year projects, the project shall retain the points received during the first phase of the project. The points shall not be decreased or increased due to available capacity.

3. Up to six additional points may be awarded to a project where:

At the time of application submittal or applicant commits as part of the first year of the first phase of the current application, a safe walking route exists or will be provided between the project site and existing or planned MHUSD schools, or charter school approved by MHUSD, Santa Clara County Board of Education or California Department of Education. A safe route is defined as continuous sidewalks and/or paved pedestrian pathways cross walks and traffic signals at designated street intersections between the project and a school site.

The distance to a school is measured as the lineal distance a student would walk, from the average center point of housing in a project to the nearest entrance point of the nearest school grounds.

- a. The project is within three-quarters of a mile lineal walking distance of an elementary school serving grades TK through three and:
 - i. The students are not required to cross railroad tracks, or a street that is designated within the general plan as a collector or arterial. (one point)
- b. The project is within three-quarters of a mile lineal walking distance of an elementary school serving grades four through eight and:
 - i. The students are not required to cross railroad tracks, or a street that is designated within the general plan as an arterial. (one point)
- c. The project is within one and one-half miles lineal walking distance of a middle/intermediate school and:
 - i. The students are not required to cross railroad tracks, or a street that is designated within the general plan as an arterial unless the most direct street crossing can occur at a signalized intersection. (one point)
- d.

The project is within one and one-half miles lineal walking distance of a high school. (two points)

Note. For purposes of scoring, district-wide programs which serve all students within MHUSD and don't have specific boundaries such as community adult school, home-school or independent studies, opportunity, or continuation high school shall be considered programs and not schools.

- e. Proposed development will be for senior citizens as defined in Section 51.2 of the State Civil Code and the RDCS Council Policy defining the senior housing competition category. (six points)

NOTE: For scoring purposes, the anticipated attendance area for an existing or planned school shall be as determined by the board of education and published MHUSD prior to May 1 of the calendar year for each competition. A planned school is defined as a site designated by the MHUSD board for a future school prior to May 1 of the calendar year the competition is held. Scoring for a multi-year/phased development includes recognition of all pedestrian safety or traffic improvements provided in the initial or previous phases of the development. Improvements required to establish a safe walking route (sidewalks, paved paths, traffic signals, etc.) must be in place when the project is ready to build or the improvements will be completed by the project.

4. Up to six additional points may be awarded to a project which:

- a. Provides off-site pedestrian safety improvements or traffic safety improvements, including adjacent related roadway improvements near a MHUSD school. Any proposed pedestrian and traffic safety improvements cannot be redundant of improvements committed to in other categories. The cost of the improvements must be valued at eight hundred twenty-five dollars per point per unit. The pedestrian improvements and traffic safety improvements must be made to an elementary school within three-quarters of a mile (straight line distance) of the edge of project site or the same improvements can be made to a middle or high school within the city's urban

service area (USA). (Up to two points for safety improvements in proximity to a school and up to four points for safety improvements on roadways serving schools within the city's USA.)

Note: The public improvements offered under the above subsection must be separate from the public improvements offered within the public facilities, circulation efficiency and livable communities categories.

For safe walking route improvements, applicants must also provide a letter from each intervening property owner stating agreement to dedicate the required street right-of-way for the sidewalk or pathway improvements between the project site and the designated school. Improvements to establish a safe walking route must be completed prior to completion of the twentieth unit in the development or completion of the project, whichever occurs first.

(Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

Editor's note— Ord. No. 2136 N.S., § 1(Exh. A), adopted May 20, 2015, amended § 18.78.210 in its entirety to read as herein set out. Former § 18.78.210 pertained to schools. See Code Comparative Table for a detailed history of derivation.

18.78.220 - Open space.

- A. The provisions of public and/or private usable open space, and where applicable, greenbelts. (twenty points)
 - 1. The provision of open space is desirable for the physical and mental well-being of the city residents, as well as preserving a rural atmosphere and invoking a positive reaction to the environment. These open spaces can then be used for both passive and active recreation for all age groups, while also preserving the environment for present and future generations to enjoy.
- B. Standards and criteria.
 - 1. Open space areas are provided or maintained within the proposed development.
 - a. Provides open space buffer areas adjacent to freeway or arterial streets, measuring five feet in depth in excess of the zoning code requirements for one point, ten feet in excess of the code for two points (up to two points);
 - b.

Public or private common useable open space is encouraged where neighborhood homeowners associations or other acceptable private maintenance entity can be used to coordinate their use and maintenance (one point);

- c. Provides convenient access to public or private parks internal to the project where appropriate through the use of bicycle and pedestrian pathways. Bicycle and pedestrian pathways shall be located in areas no less than twenty feet wide, with an average width of thirty feet (for the entire length of the path). The pathway provided shall be paved or other suitable durable surface and a minimum of seven feet in width. The proposed pathway(s) cannot be redundant of public sidewalks (one point);
- d. For multi-family projects, provides convenient access to private parks or amenities internal to the project where appropriate through the use of pedestrian pathways. Pedestrian pathways shall be at least six feet in width, have adjacent landscaping and provide handicap ramps and demarcated crossings of all internal streets and drive aisles. (one point)
- e. Provides accessibility to existing or proposed public parks and open space areas outside the project boundary and encourages multiple uses and fee dedication of open space areas adjacent to flood control rights-of-way and recharge facilities. Points will only be awarded where the relevant public agency has provided written approval to allow access between the project and the aforementioned facilities. The access provided cannot be redundant of the public sidewalk. (one point)

Note: Requires public agency ownership or agreement to accept dedication of the land by the public agency.

- f. Provides private usable open space areas for single-family attached projects (excluding decks and balconies) for seventy-five percent of the project (one point) for one hundred percent of the project (two points).
- g. Reserved.
- h. Historical sites and landmarks identified on a local, county, state or federal listing or registry on or adjacent to the project site are maintained in as natural state as possible with limited supportive development such as parking facilities, fencing, signing, etc. The proposed commitment requires

staff consultation and concurrence regarding proposed maintenance activity or supportive development related to the historical site or landmark. (up to two points)

Note: Placement of a historical plaque or marker only will be awarded one-half point.

2. Provides a high ratio of total open space area. (A maximum of ten points will be assigned under subsection a. of this criterion.)

a.	Building Coverage (%)	Points
	55 - < 60	1
	50 - < 55	2
	45 - < 50	3
	40 - < 45	4
	35 - < 40	5
	30 - < 35	6
	25 - < 30	7
	20 - < 25	8
	15 < 20	9
	10 < 15	10

Building coverage for vertical mixed use projects, multi-family projects in the CC-R district, or projects zoned R-4 or similar high density zoning classification will be calculated as follows: (A maximum of ten points will be assigned under subsection (b) of this criterion.)

b.	Building Coverage (%)	Points
	90 - < 95	3
	85 - < 90	4
	80 - < 85	5
	75 - < 80	6
	70 - < 75	7
	65 - < 70	8
	60 < 65	9
	55 < 60	10

Building coverage is defined as that portion of the overall project master plan, exclusive of sidewalks, driveways and streets, which is covered by a building, parking lot or carport. In projects with open plazas on a podium above ground level parking, the open plaza space shall be excluded from the calculation for building coverage.

3. Downtown vertical mixed use projects will be awarded up to six points for a commitment to contribute toward a shared open space amenity such as a park, green space along the creek or downtown plaza.

- a.

In addition to the points available under subsection (B) (4) below, a vertical mixed use project will be awarded three points for payment of a downtown open space amenity fee. The amount of the fee shall be equal to the most recent adjusted open space fee (see Note 1 below). Eligible projects that elect to pay double the fee will be awarded six points.

4. There is a maximum of six points available in this category.
 - a. The project will receive three points for a commitment to purchase transferable development credits (TDCs) from property owners with land of greater than twenty percent slope. (Based upon the ratio of one TDC for every twenty dwelling units proposed.)
 - b. Projects of twenty-five units or less which do not provide a common area park or open space will receive six points for a commitment to purchase double TDCs.
 - c. Projects zoned R-2, R-3, or similar higher density classification will receive six points for a commitment to purchase double TDCs.

Note 1: In lieu of the TDC commitment, projects of twenty-five units or less, downtown area projects and affordable project developments will be awarded three points for payment of an open space fee at the rate of thirty-six thousand eight hundred eighty dollars per TDC per twenty units, or projects that elect to pay double the open space fee will be awarded six points. The amount of the open space fee shall be based on the average cost per dwelling unit for an equivalent TDC commitment as specified above. The open space fee shall be adjusted annually in accordance with the annual percentage increase or decrease in the median price of a single-family detached home in Santa Clara County. The base year from which the annual percentage change is determined shall be January 1, 2005. The base year may be adjusted by city council resolution prior to the filing deadline for each competition year.

Note 2: Projects containing both single and multifamily zoning will be granted a proportional share of points for commitments to subsections (a) and (c) above. Points will be granted based on a percentage of units within the various zoning districts within the entire overall project. For example, a project of fifty percent R-2 and fifty percent R-1 would receive fifty percent of the six points available under

subsection (4)(c) and fifty percent of the three points available for the single-family TDC commitment under (4)(a) for a total of four and one-half points (rounding will occur to the nearest half point).

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 2, 3, 2002; Ord. 1517 N.S. §§ 2 and 3, 2001; Ord. 1486 N.S. §§ 3, 4, 2000; Ord. 1438 N.S. § 1, 1999; Ord. 1404 N.S. § 2, 1998; Ord. 1346 N.S. § 2, 1997; Ord. 1228 N.S. § 3, 1995; Ord. 1179 N.S. § 7, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.230 - Orderly and contiguous development.

- A. The extent to which the proposed development accomplishes the orderly and continuous extension of existing development rather than "leapfrog" development, by using land contiguous to urban development within the city limits or near the central core and by the filling in on existing utility lines rather than extending utility collectors. (20 points)

For scoring purposes, "the central core" is the area illustrated on the central core map, attached as Exhibit B and described generally as that area bounded on the west by Del Monte Avenue from Wright Avenue to Ciolino Avenue and by West Little Llagas Creek from Ciolino Avenue to Cosmo Avenue; on the east by the rail road tracks from the easterly prolongation of Wright Avenue to Main Avenue, by Butterfield Boulevard from Main Avenue to Dunne Avenue, and by Church Street from Dunne Avenue to the easterly prolongation of Cosmo Avenue; on the north by Wright Avenue and its easterly prolongation to Church Street.

1. A well planned community is one which provides for the needs of its residents. Convenience, economy, and service are aspects which an orderly and contiguous development pattern can help facilitate.

B. Standards and Criteria.

- 1.

Develops lands near the central core of the city as defined by Exhibit "B" to Measure "C" approved by the voters on March 2, 2004. There is a benefit for development to be within the central core area. However, it is recognized that the city does not have a well defined central core. Therefore, greater emphasis is to be given to contiguous patterns of growth. Projects within the core area will receive eight points. Projects located outside the core area will receive from zero to seven points depending on their relationship to the core area measured from the centerline of a street as shown below:

- a. Within central core, eight points;
- b. Within six hundred feet of the central core area, seven and one-half points;
- c. Within one thousand two hundred feet of the central core area, seven points;
- d. Within one thousand eight hundred feet of the central core area, six and one-half points;
- e. Within two thousand four hundred feet of the central core area, six points;
- f. Within three thousand feet of the central core area, five and one-half points;
- g. Within three thousand six hundred feet of the central core area, five points;
- h. Within four thousand two hundred feet of the central core area, four and one-half points;
- i. Within four thousand eight hundred feet of the central core area, four points;
- j. Within five thousand four hundred feet of the central core area, three and one-half points;
- k. Within six thousand feet of the central core area, three points;
- l. Within six thousand six hundred feet of the central core area, two and one-half points;
- m. Within seven thousand two hundred feet of the central core area, two points;
- n. Within seven thousand eight hundred feet of the central core area, one and one-half points;
- o. Within eight thousand four hundred feet of the central core area, one point;
- p. Within nine thousand feet of the central core area, one-half point;
- q. More than nine thousand feet from central core area, zero points.

Note: If any portion of a project is within the central core, as defined by the PO, that project shall be considered within the central core area. The distance from the central core shall be measured using the minimum distance between any portion of a parcel and the central core boundary measured in a straight line.

2. Fills in existing utility lines (requires no off-site extensions) and provides a contiguous pattern of growth. If water is available at the site and the water main is of sufficient capacity and supply to serve the proposed project and future development, the project will receive one point. If sewer is available to the site and the sewer main has sufficient capacity to serve the proposed project and future development, the project will receive one point. If storm drains are of sufficient capacity to serve the project and are available to the site, the project will receive one point. If the project is located within the established response time standard of one fire station, the project will receive one point. If the project is located within the established time standard of one fire station and within one hundred fifteen percent of the response standard for a second fire station, the project will receive an additional one half point. If the project is located within the established response time standard of two or more fire stations, the project will receive one additional point.
3. A proposed development located within the existing urban service area which provides for orderly growth and urban in-fill is preferable and helps prevent premature urbanization of agricultural land. Projects that provide for orderly growth patterns throughout residential neighborhoods and compatibility with adjacent and nearby land uses are preferable. Projects that are located adjacent to land that has been developed or approved for development shall be scored as follows:
 - a. > 0 - 20% Adjacent to existing development, one point;
 - b. > 20 - 40% Adjacent to existing development, two points;
 - c. > 40 - 60% Adjacent to existing development, three points;
 - d. > 60 - 80% Adjacent to existing development, four points;
 - e. > 80 - 100% Adjacent to existing development, five points.

Adjacent development is defined as contiguous property located within Morgan Hill's city limits, urban service area, or urban growth boundary (UGB) and which is developed to its ultimate potential according to the city's general plan or

zoning of the property, or at least substantially developed according to the general plan or zoning. To be considered substantially developed, at least ninety-five percent of the contiguous land area must be committed or developed to its ultimate use. Contiguous property does not include streets, railroad rights-of-way, or parcels held in fee title by a public utility or public agency containing above or below ground utilities such as gas pipelines, electric power transmission lines, or major water distribution pipelines.

County lands dedicated as a public facility or encumbered with an open space easement, or contiguous property within Morgan Hill's UGB committed to an ultimate land use such as a city park, developed school site, or private open space will also be considered as adjacent development. Open space lands which are owned in private must have a public open space easement recorded over the corresponding area. For scoring purposes, undeveloped property which by September 15 of the fiscal year the competition is held has received either final map approval, or tentative map and development agreement approval for projects with previously completed phase(s), or for which building permits have been issued, shall be considered to be developed property. The perimeter established for the complete (master-planned) project will be used to determine adjacency for every RDCS submittal. Where previously allocated phases of the same project have been developed or have received final map approval and are immediately adjacent to an otherwise undeveloped external boundary, that portion of the project's perimeter shall then be considered developed, provided the project is making satisfactory progress according to the approved development schedule (project is not in default).

The percentage of a property that is adjacent to development shall be that percentage of the combined length of the subject property lines which is determined to be contiguous to adjacent development as defined in this subsection. The subject property is defined as a single parcel or contiguous parcels of record on which the proposed project would be located and shall include that portion of the subject property designated for future development. A designated remainder parcel shall not be considered a portion of the subject property except where development on all or a portion of the remainder parcel is proposed as part of the current project application.

4. A proposed development which is a subsequent phase of a previously approved project that has been awarded allotments provides for the continuous extension of existing development.
 - a. A proposed development which is a subsequent or final phase of a previously allocated development and consists of forty dwelling units or less shall be awarded one point. (one point)
 - b. A continuing project will receive two points if one half of the units allocated for the fiscal year the competition is held have been issued building permits and on site improvements for those units have been completed by September 15, and all prior phases are under construction or completed (excluding customs) (two points); or
If a proposed development is a continuing project and does not have any allocations for the FY the competition is held, the project will receive two points if all previous phases (if any) are under construction.
 - c. A continuing project will receive one point if twenty-five percent or more of the project has been awarded a building allotment and as of the next RDCS competition deadline, the project entitlements have been delayed due to extended environmental processing for completion of an Environmental Impact Report (EIR). The EIR process must be underway at time of application filing for the next RDCS competition.

Note: To qualify for any points under paragraph (B)(4), the proposed development at total build-out, shall not exceed the number of units proposed in the original development application from which the project had been awarded an initial building allotment, unless approved by the planning commission prior to the competition's application submission deadline. The number of units requested for each subsequent fiscal year shall be no more than twenty-five percent above any single highest year allotment for the proposed project to a maximum of forty units. The twenty-five percent or forty-unit limit includes any units already allocated to the project in that fiscal year as a result of a prior fiscal year competition. For subsection (B)(4)(a) and (B)(4)(b) above, all prior allotments must also have an approved development agreement and the project must be in compliance with said agreement. Applicants must provide a list of all previous fiscal year allotments.

5. Project master plan design is above average in terms of addressing internal street circulation and access requirements, appropriate transition of lot size and density within the development and with surrounding developments, and aggregation and use of common open space areas. (minus one, zero, one or two points)

Note: Project master plan determined to be only satisfactory with respect to the above items will be awarded zero points. A project will be awarded one point if no significant design flaws can be found, and the design gives strong consideration to the issues of circulation, access, density transitions, and the use of common open space. A project will be awarded an additional point if a preliminary RDCS review was completed prior to the competition and the project master plan incorporates fundamental changes as recommended by city staff. Projects that go through a preliminary RDCS review and require only very minor changes to improve the quality of the project master plan design will also receive an additional point for a two point award. If a project master plan has two or more significant design flaws, it will be considered below average and one point will be taken away. A design flaw would be something that, at the subdivision stage, staff would ask to be modified or not recommend for planning commission approval. Significant design flaws would basically require the redesign of the master plan. For scoring purposes, that portion of an on-going project awarded a building allotment prior to October 1, 1999, shall not be considered within the project master plan design, except where the inclusion of the earlier allocated phase(s) would result in a higher overall score.

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 4, 2002; Ord. 1517 N.S. § 4, 2001; Ord. 1486 N.S. §§ 5, 6, 2000; Ord. 1438 N.S. §§ 2, 3, 1999; Ord. 1404 N.S. § 5, 1998; Ord. 1346 N.S. §§ 3, 4, 1997; Ord. 1228 N.S. § 4, 1995; Ord. 1179 N.S. § 8, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991; Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.240 - Public facilities.

- A. The provision of needed public facilities such as critical linkages in the major street system, or other vital public facilities. (ten points)
 - 1.

The public facilities which serve the Morgan Hill area can benefit by discriminate development which improves the existing systems. Many areas exist where improvements to the systems are needed. A proposed project should help alleviate the problem rather than aggravate it.

B. Standards and criteria.

1. A micro, small vertical mixed use, or affordable project will receive (three points) if it meets all standard requirements for design and construction of public facilities.
2. Installs public facilities of sufficient size to service the proposed development and future developments without the need to install supplemental facilities.
 - a. Grids proposed water mains into the existing water system by linking two separate existing water mains. (two points)
 - b. Drainage concept is consistent with the city's storm drain system. (e.g., the city's storm drain master plan, local area storm drain system). (one point)
 - c. Storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the public street (curb to curb), or in a location acceptable to the director of public works. (one point)
 - d. Storm drainage from the development is accommodated without the need for an on-site detention or open space retention areas, unless the on-site detention facility is appropriately located and sized so as to serve or coordinate with future area-wide or adjacent development. The detention/retention facility shall be designed as open pond and shall only be underground as allowed by the public works department. (up to two points)

Note 1: Applicants providing an oversized pond must supply information specifying how the detention sizing will address the area need and how other projects will be connected to the detention facility. The extra capacity provided must be stated in terms of the land area it can serve in acres and cubic feet. When the detention is not connected to other projects, the applicant must provide data satisfactory to the city's public works department demonstrating the detention facility's benefit to other off-site projects. This shall be in the form of an agreement letter included the application submittal. Over sizing must equal fifty percent of the project drainage area or ten acres, whichever is greater, to receive maximum points.

Note 2: Applicants who use a regional detention facility, a detention pond from another development, or a Santa Clara Valley Water District facility must supply an authorization/approval letter with their application.

- e. Provides a pre-approved site within the project boundary for city municipal water well which shall be granted to the City of Morgan Hill in fee title. (one point)
- f. Provides public facility, off-site storm drainage improvements or pedestrian improvements from a city-approved list or improvements on or adjacent to the project in excess of standard requirements, e.g., sewer, traffic control. In the downtown area, these improvements can include pedestrian amenities such as lighting, planters that function as seating, seating and railings to lean on, refuse and recycling bins, traffic calming features, contribution to a public art fund or provides public art of appropriate value approved through the city's library, culture and arts commission, or provides gateway features, consistent with the downtown plan. (maximum four points)

Note: Under this criterion, the applicant needs to explain how and why the offered public improvements exceed the city standards. Furthermore, the cost of the offered public improvements and dedication shall be equal to or greater than one thousand one hundred dollars per unit per point. Should the offered dedication and improvements be redundant to those offered within the circulation efficiency (CE) category, the value of the redundant improvements will be reduced by one thousand one hundred dollars per unit per point for each point awarded within the CE category. For example, if redundant improvements are valued at three thousand three hundred dollars per unit here, and two points were awarded for them in CE, then only one point would be awarded for them here. The improvements offered here and in the CE category also cannot be redundant of those improvements offered within the schools category.

Emphasis will be placed on improvements on or adjacent to the project but consideration will also be given to projects that provide improvements within one mile beyond their project boundaries. (one—four points)

g.

Applicant will contribute one thousand, one hundred dollars per unit to the RDCS Capital Improvements fund. YES _____, or NO _____

(Contingent commitments will not receive point). (one point)

Note: Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

Scoring for a multi-year/phased developments includes recognition all public facility improvements committed to be installed in the initial or previous phases of development (project completed to date vis-à-vis improvements completed to date). The initial or previous phase of development must also be in compliance with the development schedule approved for the project.

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 5, 6, 7, 2002; Ord. 1517 N.S. § 5, 2001; Ord. 1438 N.S. § 4, 1999; Ord. 1346 N.S. § 5, 1997; Ord. 1228 N.S. § 5, 1995; Ord. 1179 N.S. § 9, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1049 N.S. § 1, 1991; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.250 - Parks and paths.

A. Provision of parks, foot or bicycle paths, equestrian trails or pathways. (ten points)

1. The Morgan Hill area has many natural amenities that should be made accessible to its residents. Access should be made readily available by using a variety of methods, including foot and bicycle paths, and equestrian trails. By providing the opportunities to experience the area's natural amenities, a healthier attitude towards caring for and preserving the environment will be encouraged.

B. Standards and Criteria.

1. In lieu of dedicating land, projects of fifty units or less which are not providing parks are required to pay a fee to the city equal to the value of the land prescribed for dedication. The amount of park land dedication or in lieu fee must be consistent with the requirements contained in Chapter 17.28 of this code. For the land dedication to apply, the property must be deeded to the city for public

park purposes. Not applicable to passive open space or landscape buffer areas deeded to a homeowners association. (four points for projects of fifty units or less which are not providing parks)

2. Provides privately owned and maintained on-site recreational amenities which are of greater value and utility from the following list. Projects of fifty or fewer units will receive credit for a maximum of one amenity from the one point category list. Projects more than fifty units will only receive credit for amenities provided from the two point or higher point category lists. Projects of more than one hundred fifty units must provide at least two amenities from the three or four point category lists. (up to four points, up to eight points for multi-family rental projects)

Site Recreation Amenities

One point amenities:

Shuffleboard.

Horseshoes.

Bowling green w/artificial turf.

Passive recreation area and/or gardens.

Passive water feature (e.g. fountain).

Picnic/barbeque area.

Two point amenities:

Cabana or shade trellis area.

Two picnic/barbeque areas.

Clubhouse kitchen/dining area.

Volleyball court and/or Bocce ball court

Outdoor racquetball/handball tilt-up wall.

Dog Park (add one point more with dog wash station)

Sauna and/or Jacuzzi.

Tree grove as approved by the community development director or designated staff.

Community garden plots (minimum one forty-eight-square-foot plot per each ten dwelling units) with water service.

½ court basketball (one hoop).

Bridle paths.

Bocce ball.

Artificial turf putting green.

Three point amenities:

Softball field.

Sports court and/or basketball court (two hoops)

Restroom area.

½ scale soccer field.

Tot lots (age appropriate play equipment/minimum three activities; can be integrated in structure).

Jacuzzi and separate child wading pool (for projects between twenty and forty-nine units zoned R-2, R-3 or higher density development).

Tennis court.

Recreation hall.

Exercise room.

Four point amenities:

Swimming pool (for projects of fifty or more units zoned R-2, R-3 or higher density development).

Points will also be awarded for any proposed amenity found by the planning commission to provide recreation or meet the needs of the project residents to a level similar to provided by the above. Point values in the above chart are based on a project fifty units or less in size. For projects of fifty-one to one hundred units, divide the above values by two. For projects of one hundred to one hundred fifty, divide the above point values by three, etc.

3. Provides class I bicycle pathways or equestrian trails along the project frontage, or provides pedestrian paths consistent with the city's trails master plan or downtown plan in accordance with the overall community-wide and/or county-wide bicycle master plans. In areas where a class I bike path is not required, the project provides necessary street improvements and striping for class II bike lanes. The project must provide at least one quarter mile of class II bike lane improvements for each ten dwelling units within the project. (one point)
4. Projects located in the downtown area may be awarded up to one point based on the following criteria:
 - a. The project provides ground floor mid block pedestrian connections through large buildings that provide access to public or private open space areas and plazas. For the criterion to apply, the pedestrian connection must be continuous and unrestricted during business hours. (one point)
5. For projects of more than one hundred fifty units, provides an improved on-site public neighborhood park at a location accessible from an adjacent public street or provides an off-site public neighborhood park at a location approved by the city, with a written agreement prior to the competition that the city will accept the dedication offer and the amenities (park improvements). (four points.) Projects will receive three points for land only dedications with fees equal to the improvement cost for future park improvements by the city. (three points)
6. In addition to payment of standard park fees, applicant will pay the lesser of double the required in lieu park fees or one thousand one hundred dollars per point up to three thousand three hundred dollars per unit (up to three points); or
- 7.

Applicant (projects of fifty units or less who do not provide a park) will pay the lesser of triple the required in lieu park fees or one thousand one hundred dollars per point up to six thousand six hundred dollars per unit. (up to six points)

8. For projects of less than one hundred fifty units, or projects greater than one hundred fifty units where the city does not accept the written dedication offer under criterion B5 above, public or private parks provided by the project exceed the dedicated land requirements stated in Chapter 17.28 of the Morgan Hill Municipal Code. (one point if exceeds the requirement by twenty percent, two points if exceeds by thirty percent, or three points if exceeds by forty percent, or four points if exceeds by fifty percent). For the purposes of this provision, the calculation of the amount of dedicated land shall not include yards, court areas, setbacks and other open areas required to be maintained by the zoning and building ordinances. The proposed open space shall be in substantial accordance with the provisions of the recreational element of the general plan and shall be a minimum of two acres and provide a minimum of four of the local park basic elements provided in Chapter 17.28.130, or a combination of such and other recreational improvements that will meet the specific recreational park needs of the future residents of the area.

Note: The number of recreational amenities required pursuant to Section 18.18.060 shall be based on the total number of dwelling units within the project, including secondary dwelling units as defined in Section 18.04.164 of this title.

Scoring for a multi-year/phased development includes recognition all recreational amenities provided in the initial or previous phases of development (amenities provided to date vis-à-vis project completed to date). The initial phase of development must also be in compliance with the development schedule approved for the project.

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 8, 2002; Ord. 1517 N.S. §§ 6, 7 and 8, 2001; Ord. 1486 N.S. §§ 7, 8, 2000; Ord. 1438 N.S. §§ 5, 6, 1999; Ord. 1404 N.S. § 6, 1998; Ord. 1346 N.S. § 6, 1997; Ord. 1228 N.S. § 6, 1995; Ord. 1179 N.S. § 10, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1935 N.S., § 4(Exh. B), 6-3-2009; Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1980 N.S., § 4, 6-2-2010; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.260 - Housing needs.

- A. Provision of units to meet the city's need for low and moderate income and elderly housing and the extent to which such provision meets the goals of the housing element of the general plan, including the distribution of housing types to provide neighborhoods of ethnic and economic diversity. (fifteen points)
 - 1. The city has an obligation to provide adequate housing for all segments of the population in a variety of lot sizes and dwelling sizes and types. It must do this in a fashion which creates diversified neighborhood environments and income groups, avoiding concentrations of any single income group in one particular residential neighborhood. A neighborhood mix of ethnic and economic diversity, as required by the housing element of the general plan will therefore be encouraged.
 - 2. Provides affordable housing units for households ranging from very low to moderate income. Most units sold or rented at below market rates will receive increased density.
- B. Standards and criteria.
 - 1. The project provides fifteen percent of the total dwelling units with secondary (granny) units. In lieu of secondary dwelling units, projects in an R-2 district provide a minimum of ten percent and less than twenty-five percent of the overall units as single detached dwellings. (two points)

Note: To be counted as a secondary (granny) unit, the secondary dwelling must be constructed with complete, independent living accommodations including a full kitchen as defined in Section 18.04.237 of the municipal code.
 - 2. Standard housing fees.
 - a. The project will receive six points if it chooses to pay the standard housing fee computed at eight percent of the total project.
 - b.

In addition to points awarded under subsection 2a above, a micro, small or any project having all lots in excess of twenty thousand square feet will receive six points if it chooses to pay double the standard housing fee computed at eight percent of the total project (including replacement units). Eight percent of the overall project units times the standard housing fee amount equals the total fee amount, e.g. 8 percent of 60 units = $4.8 \times \$150,000.00 = \$720,00.00$. Example only - the standard housing fee is the amount in effect for the competition.

- c. A project not receiving six points under subsection 2.a. or 2.b. above may also be awarded thirteen points where all lots in the proposed development are twelve thousand square feet and above in size, the developer commits to pay double the standard housing fee, and provides a minimum of twenty percent of the overall dwellings with secondary dwelling units.
3. Affordable units for sale or rent.
- a. Projects are eligible to receive points in this category based on the percent and level of affordability of below market rate units built within the project. When in the process of determining the number of below market rate units required, there occurs a fraction of a unit, any fraction less than one-half shall be paid as a corresponding fraction or percentage of the per unit cost of the standard housing fee. In phased developments, developer may carry the fractional share forward into succeeding phases until the fraction reaches one-half or higher. Any fraction of one-half or greater shall be deemed a requirement for one additional below market rate unit. The developer however, may continue to carry the partial credit forward into the next phase(s) of the overall development. Refer to the following charts to compute points.

Note: For projects that commit to provide a certain percentage of total units as affordable below market rate units, any fractions equal to or greater than one-half shall be rounded up to the next whole number. Additionally, whenever the project's individual commitment of low and median/moderate income units combines to equal one-half or greater, the project shall be required to provide one additional median income unit in the final phase of the development.

Market Rate for Sale Competition

Percentage of Median/Moderate Income (of appropriate household size) for Sales Price Determination

Points	Commitment	R-3	R-2	R-1 7000	R-1 9000 and above lot size
(a) 13 Points	4% Low	70%	73%	76%	80%
	4% Med**	90%	100%	110%	120%
(b) 14 points	6% Low	70%*	73%*	76%*	80%*
	2% Med**	90%*	100%*	110%*	120%*
(c) 15 points	8% Low	65%	70%	75%	80%

* BMR sales price determination is based on median income and household size. All BMR units, including moderate income BMRs are deed restricted. Final BMR sales price is based on verification of property zoning and housing types.

** In lieu of constructing the median income BMR(s) projects receiving allocations for fiscal year 2013—2014 can pay an in lieu fee for median income units required to be constructed in the project phase utilizing the FY 2013—2014 allocations.

Affordable For Sale Competition

Percent of Dwelling Units by Income Category for the affordable housing share within the Affordable Housing Competition

Points	Low Income	Median Income	Moderate
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			Income
15	40%	30%	30%
<u>11</u>	15%	45%	40%
7		50%	50%

For projects that commit to provide a low and median income affordable commitment, in the final phase, where the fractional share of the low and median income units combine to equal one-half or above, the project shall be required to provide one additional median income unit as fulfillment of the project's overall affordable housing commitment.

Market Rate Units for Rent:

Points	Percent of BMR Units		
	Extremely Low Income	Very Low Income	Low Income
15	2%	6%	0
<u>11</u>	0	4%	4%
7	0	0	8%

Affordable Competition Units for Rent:

Applicable to non-profit agency sponsored project (does not include up to twenty-five percent market rate rental share)

Points	Percent of Affordable Units		
	Extremely Low Income	Very Low Income	Low Income
15	8%	50%	40%
<u>11</u>	4%	40%	55%
7	0	30%	70%

- b. In lieu of BMR commitment, a downtown area project may be awarded points for overall housing affordability as follow:
 - i. One hundred percent of the units are affordable to less than moderate income households (eight points), or
 - ii. Seventy-five percent of the units are affordable to less than moderate income households and twenty-five percent of the units are affordable to less than median income households. (ten points)
- c. In lieu of BMR commitment, a large multi-family rental project (> 150 units) may be awarded eight points for overall housing affordability if at least ten percent of the units are affordable to median income households. (eight points)
4. A project may also be awarded thirteen points if at least eight percent of the dwellings are affordable at below market rates and the BMR units are constructed in a joint venture with a non-profit builder. The following criteria shall apply to the joint venture development:
 - a. A letter of intent signed by both parties must be included with the RDSC application.

- b. The homes are to be built by the non-profit agency through a self help building program or other applicable program approved by the city.
- c. The project must provide an area for a minimum of eight BMR units as part of the joint venture agreement. If ten percent of the project is less than eight dwelling units, allocations above ten percent of the project may be drawn from the affordable allotment set-aside if available, to achieve the eight unit minimum.
- d. The price range and target income of the buyers shall be determined and approved by the city and non-profit agency prior to the RDCS application.
- e. The site and architectural plans for the affordable units shall be shown on the plans and shall be considered part of the market rate application.

Note: If the applicant and non-profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the other options to achieve thirteen points under subsection (B)(4) in this category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

- 5. For multi-family rental projects, a project providing fifty percent of the units with an enclosed garage will receive one point. A project providing seventy-five percent of the units with an enclosed garage will receive two points. A project providing seventy-five percent of the units with an enclosed garage that is directly accessible to the living unit will receive three points. Property management shall require that on-site parking occurs within the garages and that garages are not utilized solely for storage purposes.

Note: Proposed developments must be assigned a minimum passing score of eight points under this category in order to qualify for building allotments.

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 9, 10, 11, 2002; Ord. 1517 N.S. §§ 9 and 10, 2001; Ord. 1486 N.S. § 9, 2000; Ord. 1438 N.S. § 7, 1999; Ord. 1404 N.S. § 7, 1998; Ord. 1346 N.S. §§ 7, 8, 1997; Ord. 1323 N.S. § 38, 1997; Ord. 1228 N.S. §§ 7, 8, 1995; Ord. 1179 N.S. § 11, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1980 N.S., § 4, 6-2-2010; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.270 - Housing types.

- A. The extent to which the proposed development itself consists of a diversity of housing types to meet the goals of the housing element of the general plan (fifteen points).
1. In order to develop residential neighborhoods which have a mix of housing types, new residential construction should consider the existing composition of the neighborhood and plan its housing design accordingly.

B. Standards and Criteria.

1. Provides for a diversity of housing types:
- a. Utilizes a mix of the various housing categories to provide housing diversity as follows by housing type* (a maximum of seven points, two points per housing type, excepting the fifteen percent single story housing type which is worth three points).

Note: One hundred percent rental projects will receive seven points. Owner occupied single-family detached projects will receive three points for one housing type, five points for two housing types and seven points for three housing types. Because multi-family housing is underrepresented within Morgan Hill, to promote the development of multi-family, all CL-R and CC-R zoned projects and multi-family R2, R3 and R4 zoned projects will receive seven points for one housing type and five points for two or more housing types.

* Housing Types are defined as follows:

- Single-family detached.
- Single-family attached.
- Vertical mixed use; multi-family or stacked condominium or condominium units in buildings containing three or more units.
- Custom lots.
- Secondary dwelling units.
-

Single story dwelling units (must represent at least fifteen percent of the total dwelling units).

For the above determination, the number of units for a particular housing type when divided by the total number of units in the project, must represent at least ten percent of the total number of housing units in the development (fifteen percent for single story units). The ten percent requirement would be in addition to any housing type used for below market rate (BMR) units. Single story BMR units may be counted toward the fifteen percent overall requirements for single story units.

Note: Only projects that have obtained partial allocations prior to and including FY 2015-2016 shall be permitted to utilize the R1-4,500 lot as a housing type for scoring purposes for the subsequent phases of their projects to compete for allocations.

Note: The percentage requirements stated above are absolute figures. Rounding to the nearest whole number is not permitted. A minimum of ten percent (fifteen for single story units) is required, i.e. rounding up to get ten percent is not allowed except when necessary to meet the ten percent commitment for example ten percent of forty-three units is 4.3 which means five units would be needed to meet the ten percent requirement.

- b. Over and above the BMR units committed in this section, the project provides an additional ten percent detached units in an R-2 project or an additional ten percent attached units in an R-1 project or an additional ten percent ownership (e.g. townhouse units) in an R-3 project (two points maximum)

Projects that have both R-2 and R-1 zoning designation can receive one point for providing an additional ten percent detached units in the R-2 project area and/or one point for providing an additional ten percent attached units in an R-1 portion of the project.

Note: For projects that contain R-1 (4,500) lots and have obtained partial allocations prior to and including FY 2015-2016, if the project provides an additional ten percent R-1 (4,500) lots in an R-1 project, the project could obtain two points.

2. Provides for an economic diversity within the project.
 - a. The proposed project would augment the existing housing stock by providing housing which would be affordable under the income categories described below. A maximum of two points (or four points if for rent) may be awarded to projects which reserve a portion of the total units (see table below) as affordable to very low income households within one hundred percent rental projects or low income (ownership units) in other projects.
 - b. For a proposed large multi-family rental project (>150 units) the project would augment the existing housing stock by reserving ten percent of the units that would be affordable to median income households. (two points)

Note: A micro or small project will receive two points if it chooses to pay the standard housing fee computed at ten percent of the total project (including replacement units), or four points if it chooses to pay double the housing fee. Any project where all lots are in excess of twelve thousand square feet, will receive two points if it chooses to pay the standard housing fee.

For Sale Projects

Points	8% BMR Commitment: Provides for percentage of affordable units	
	LOW	MEDIAN/MODERATE**
4*		
2	8	
2	6	2
1.5	4	4

* Applicable to seventy-five percent affordable/ up to twenty-five percent market rate projects.

** Moderate BMR units must be on appropriately sized lots (> four thousand square feet)

Note: If the applicant and non-profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the other options to achieve the two points in this (for sale) category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

For Rent Projects

Points	Percent of Units		
	Extremely Low Income	Very Low Income	Low Income
4	2%	6%	0
4	0	4%	4%
3	0	2%	6%
2	0	0	8%

3. A project may be awarded points for housing variation under one of the following criteria:
 - a. For single-family/ownership projects, the proposed project provides for a variation of housing sizes within the project. The proposed project provides at least a fifty percent variation in house size from the smallest to largest floor plan and each house size represents at least ten percent of the total units

(three points). For purposes of making the above determination, there must be at least three different floor plans and a one hundred twenty square foot difference between the sizes of each floor plan where the floor plans do not exceed one thousand five hundred square feet (less than one hundred twenty square feet difference will be aggregated as one floor plan). Where the floor plans exceed one thousand five hundred square feet, there must be a two hundred square foot difference between the sizes of each floor plan (less than two hundred square feet difference will be aggregated as one floor plan). The square footage shall be based on the conditioned living space.

- b. For multi-family projects, and seventy-five percent affordable and up to twenty-five percent market rate ownership projects, the variation will be based on number of bedrooms. A project which provides one bedroom units only, will receive one point. A project which provides a mix of one and two bedroom units or two bedroom units only, will receive two points. A project which provides dwelling units with a mix of one, two and three and four bedroom units or dwelling units with three or more bedrooms only within the development, will receive three points. Each bedroom category must represent at least ten percent of the total units. Affordable ownership projects must provide a minimum of three floor plans to be eligible for points under this criterion.
- c. For vertical mixed-use and downtown area projects, the variation will be based on number of studio, one and two bedroom units. A project which provides a mix of studio, one bedroom and two bedroom units will receive three points. A project which provides a mix of one and two bedroom units will receive two points. A project which provides dwelling units with two bedrooms only within the development, will receive one point. Each bedroom category must represent at least twenty percent of the total units.

Note: Three bedroom units are allowed as part of the remaining percentage of the total dwelling units and will not affect the points given under this criterion.

Note: BMR units may not be used when determining housing size variations

Note: For projects that contain R-1 (4,500) lots and have obtained partial allocations prior to and including FY 2015-2016, the variation will be based on the number of bedrooms. A project which provides a mix of units with two bedrooms

and three bedroom units will receive two points. A project with four bedroom units or an additional five percent single-story units will receive three points.

4. A project providing at least twenty-five percent of the dwellings as visitability accessible units will be awarded one point. Visitability units are accessible dwellings that have one zero-step entrance; all main floor interiors, including bathrooms, with thirty-two inches of clear passage space; and at least a half bath on the main floor usable for a person in a wheelchair. (one point)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 12, 13, 2002; Ord. 1517 N.S. §§ 11 and 12, 2001; Ord. 1486 N.S. § 10, 2000; Ord. 1438 N.S. §§ 8, 9, 1999; Ord. 1404 N.S. § 8, 1998; Ord. 1346 N.S. §§ 9—11, 1997; Ord. 1228 N.S. § 8, 1995; Ord. 1179 N.S. §§ 12, 13, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1992 N.S., Exh. H, 10-6-2010; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.280 - Quality of construction standards.

- A. Architectural design quality as indicated by the quality of construction and by the architectural elevations of the proposed buildings, judged in terms of architectural style, size and height. (fifteen points)
 1. The proposed project should create high-quality buildings that are responsive to the needs of its users and the environment, while also accomplishing it in an appealing and attractive manner. The overall project design should be compatible and harmonious with existing adjacent residential neighborhoods and land uses, while still maintaining its own special character.
- B. Standards and Criteria.
 1. Over and above commitments made in the natural and environmental category, the proposed development will meet the following:
 - a. Installation of OSB/Plywood wrap. (three points)
 - b. Foundations shall have a 20 percent reduction of cement in the concrete mix design by use of fly ash, slag, silica fume or rice hull ash. (three points)

- c. Installation of light weight wallboard for all walls excluding code requirement for fire walls (two points)
- d. Installation of one dedicated ¾-inch electrical raceway for a future circuit to accommodate two 220 Volt electric car charging stations inside the garage. (two points)
- e. Installation of storm doors for exterior non-sliding doors that lead into habitable space. (two points)
- f. Installation of ninety percent high efficiency fan forced heating. (two points)
- g. Zoned heating and air conditioning for all one and two-story homes. For multi-family projects with multi-story units, air returns are installed on two floors to improve temperature distribution. (two points)
- h. The proposed development will provide all of the following (two points):
 - 1. Listed sound attenuated materials in walls that adjoin a bathroom and/or bedroom.
 - 2. Installation of high efficiency energy star water heater with energy factor of 0.70.
 - 3. Installation of ultra high efficiency or dual flush toilet.
 - 4. Installation of rain sensor monitor on irrigation system.

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1, Exh. A (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 14, 15, 16, 17, 18, 2002; Ord. 1517 N.S. §§ 13 and 14, 2001; Ord. 1486 N.S. § 11, 2000; Ord. 1438 N.S. § 10, 1997; Ord. 1404 N.S. § 9, 1998; Ord. 1346 N.S. § 12, 1997; Ord. 1228 N.S. § 9, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1980 N.S., § 4, 6-2-2010; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.290 - Lot layout and orientation.

- A. Site design quality as indicated by lot layout, orientation of the units on the lots and similar site design consideration. (fifteen points)
 - 1.

The overall project's site design quality is largely dependent upon the layout of the individual lots. Variations in lot sizes and configurations must take place to accommodate changes in natural terrain and street design, although this is not to be construed as meaning that areas of consistent terrain need not have lot variations. The variations in lot size, shape and layout would encourage a corresponding variation in house designs and orientations. Site design will incorporate the utilization of the sun and wind to the greatest extent possible for heating and cooling purposes.

B. Standards and criteria.

1. Provides good site design considerations in all lot layouts.
 - a. Project will not require any deviations from the lot size and dimension and setback standards of the base zoning district (excluding BMR units). (one point)
 - b. The project must provide side yards setbacks at the first level, of at least twenty percent in excess of the minimum setback required within the zone district to avoid crowding and to enhance spatial relationships (one point)
 - c. Building separations in multi-family (three or more attached units) developments shall be a minimum of twenty percent in excess of the minimum setback required by the municipal code.. (one point)
 - d. Arranges buildings, and access-ways and locates parking areas and open space to minimize the use of sound walls next to the freeway, railroad and arterial or collector streets. (one point)
 - e. Avoids driveways greater than one hundred fifty feet in length for access. (one point)
 - f. A sufficient transition in lot sizes, or building sizes and vertical mixed use developments, is proposed in the site plan design to allow compatibility between existing and proposed neighborhoods. (one point)
 - g. Over-all Excellence of Lot Layout. Layouts deemed to be average will receive zero points, above average layouts will receive one point and superior layouts will receive two points.

For scoring purposes points will be assigned as follows:

Average Project. A project requiring two or more major design changes, or which has four or more minor problems. (zero points)

Above Average Project. A project requiring one major design change, or which has three minor problems. (one point)

Superior Project. A project requiring no major changes and which has two or less minor problems. (two points)

- h. Provides harmonious use of exterior building materials and varying front elevations with low repeat factors. A reverse floor plan does not count as a separate elevation. An elevation to be considered different must include significant modifications to the exterior appearance of the structure. Floor plan and elevation repeats zero to three and one-half times: (one point)

For single-family detached buildings, repeat factor is the total number of building lots divided by: the number of floor plans multiplied by the number of alternate elevations for each plan (i.e.: repeat factor = number of building lots divided by floor plans multiplied by elevations).

For single-family attached, repeat factor is the number of structures divided by: the number of different footprints times the number of alternate elevations for each footprint (must have a minimum of two elevations within the project).

For multi-family buildings, project must have a minimum of two elevations within the project which may be satisfied by different building types when a theme architectural style is utilized.

For projects where all dwelling units are contained within a single building, the project will be scored as having no repeat elevations provided that each side of the building provides architectural interest consistent with the design review ordinance (Chapter 18.74 of the Municipal Code) and Design Standards and Guidelines Handbook and is designed consistent with requirements in the city's downtown plan (downtown projects only).

- 2. Provides street design which complements lot layout and building orientation:
 - a.

Locates streets, walkways and arranges units to provide a system of continuous park/open space areas arranged as to be useful in part for recreation that are conveniently located within the development (one point);

Note: In order to avoid spotty, scattered park/open space areas of inadequate size, the reservation for open space in one subdivision should whenever possible, be combined with similar reservations in adjoining subdivisions.

- b. Locates streets, design lots and arranges units to enhance neighborhood security by arranging a minimum of seventy-five percent of the units so that entrances are visible from the public right-of-way or private circulation areas and pedestrian walkways. An additional point may be awarded for other security measures. (up to two points)
3. Provides a variety of setbacks which complements the overall site design.
- a. The minimum zone district setback shall be met with a minimum five-foot front setback variation provided between adjoining units for single-family dwellings and four-foot setback variation provided between adjoining buildings for multifamily developments (one point).
 - b. The minimum zone district setback shall be met with a minimum five-foot rear yard setback variation for single-family dwellings and four-foot rear setback variation for multifamily dwellings provided between adjoining units (one point).

Note: For projects that contain R-1 (4,500) lots and have obtained partial allocations prior to and including FY 2015-2016, if the project provides a minimum four foot setback variation on one side yard or rear yard between adjoining units in R-1 (4,500) zone, the project could obtain a maximum of two points.

- c. The proposed project complies with the minimum lot standards for the zone district and provides at least a four foot variation in standard lot widths (excluding cul-de-sac lots) and each lot width represents at least ten percent of the total lots. For purposes of making the above determination, there must be at least three different standard lot widths and at least a four foot difference in the width of each standard lot. (one point)
- d.

For all single-family and multi-family projects, uses garage placement to provide lot variation. At least twenty-five percent of units have side-loading, detached, rear garages, or two car garages with tandem parking space to accommodate a third vehicle inside the garage. (one point when twenty-five percent of the units have garage orientation as stated above; two points when fifty percent of the units have garage orientation as stated above).

- e. For multifamily developments, projects may satisfy this criterion by locating garages, carports, and parking spaces at the side or rear of buildings at locations not directly visible from the public right-of-way. (Up to two points)
 - f. For multi-family projects, building articulation or varying placement provides visual variety from the public right-of-way. (two points)
 - g. The unit entry and habitable living space extend at least three feet in front of the unit garage doors (uncovered porch areas not included). (two points)
 - h. Garage door width will not exceed sixty-five percent of the width of the building facade (one point) or fifty-percent of the width of the building facade (two points) (applies to all street facing garages).
4. Uses lot layout and design techniques that reduce noise. Such techniques where appropriate include increased setbacks, significant landscape buffer areas, sound insulation board in the building construction, placement of air conditioning units away from property lines and side yard areas to minimize noise impacts to adjoining dwellings, etc. (one point)
5. For projects in the downtown area or for multi-family projects, building setback areas above the second story are articulated with design elements that provide visual interest, such as use of outdoor decks and balconies (must be provided on at least one elevation visible from a public or private street. Articulation must be a minimum of three horizontal feet and be thirty percent of the extent of the story [not necessarily continuous]).(one point)
6. In the downtown area, for multi-family projects of three or more stories, the project addresses building to building variation in the façade and building space above through use of architectural details such as bay windows, decorative belt courses, moldings around windows and planter boxes, etc., that span from one building to another. (one point)
- 7.

Downtown area projects and all multi-family projects will receive one point for providing shared parking (used jointly by residential and non-residential uses) and/or rear parking lots not visible from the public right-of-way. (one point)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 21, 2002; Ord. 1517 N.S. § 17, 2001; Ord. 1486 N.S. §§ 13, 14, 2000; Ord. 1438 N.S. § 12, 1999; Ord. 1346 N.S. § 14, 1997; Ord. 1228 N.S. § 11, 1995; Ord. 1179 N.S. § 14, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 1992 N.S., Exh. H, 10-6-2010; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.300 - Circulation efficiency.

- A. Site and architectural design quality as indicated by the arrangement of the site for efficiency of circulation, on-site and off-site traffic safety and privacy. (fifteen points)
 - 1. An efficient circulation system is one which accommodates various regular transportation modes (walking, biking, private automobile and public transit) in a safe and unified manner. Future residential areas should incorporate design elements whenever possible to make these forms of transportation more convenient and safe for the users.
- B. Standards and criteria.

Note: Project scoring in this section shall be based on the overall project master plan and shall include improvements completed in previous phases of the same development.

- 1. Streets, access ways and parking shall be designed to city standards and shall achieve safe and efficient circulation.
 - a. Provides, if applicable, for the future extension of streets for proper access or circulation to adjacent properties by providing one or more stubs or other improvement internal to the project. The future street extension(s) for arterial or collector streets must be consistent with the general plan or other adopted circulation plans. This criteria applies to any project adjacent to a

vacant or underutilized parcel planned for future development or redevelopment within the city's general and for which it would be consistent with city policies to extend public streets. (up to two points).

- b. Provides, if applicable, for the future extension of drive aisles, or connections to shared access drives or adjacent parking lots. This criteria applies to any project adjacent to a vacant or underutilized parcel planned for future development or redevelopment within the city's general plan (not applicable to single-family development). (one point)
- c. Eliminates existing stub or substandard streets, if applicable. Frontage improvements will not apply to this criterion unless the improvements occur along an arterial or the project completes full width street improvements along the project frontage. (up to two points)
- d. Avoids short blocks between existing and/or proposed streets. A short block is considered to be less than two hundred fifty-two feet from centerline to centerline of streets. Within a project, an entry aisle less than two hundred fifty-two feet from the entry is acceptable. This criterion is not applicable where a driveway and/or drive aisles and curb cuts are used to provide access to the entire project site. (one point)

Note: Should a project propose a short block due to site constraints such as parcel size, the project will need to go through the preliminary RDCS review process prior to the competition and receive written acknowledgement from city staff that the creation of a short block is unavoidable and acceptable. One point may be awarded under this process as an exception.

- e. Provides a minimum twenty-foot clear view back-out distance between enclosed garage space and the adjacent public street and a minimum three-foot distance from a drive aisle or alley way. (one point)
2. Streets, access ways and parking are designed to promote neighborhood connectivity.
- a. Access to the project is provided from at least two different locations from the same adjacent street or access is provided from two separate streets. (one point)
 - b.

Project avoids creation of long culs-de-sac (no greater than four hundred feet) and stub roads (one point) or the project avoids the creation of new culs-de-sac (two points)

- c. Project includes detached sidewalks with a minimum five foot street landscape strip (two points). Alternately, projects in an urban context (e.g. the downtown) provide an attached sidewalk at least ten feet in width with trees planted along the curb edge in tree wells. (one point)
 - d. Project provides circulation to facilitate emergency response and patrol as determined by the fire chief and police chief. Off-set intersections are avoided. The project shall include specific information to provide for turnarounds and secondary access proposal for phased projects. (one point)
 - e. Project provides public parking in the downtown area consistent with the downtown specific plan (i.e., at mid block areas between E. Second and E. Third and E. Third and E. Fourth Streets, on the east side of Depot Street, etc.). (up to two points)
3. Use of environmentally beneficial technology.
- a. Converts existing city lighting to energy efficient LED lights at a ratio of one street light conversion per dwelling unit. The cost of the light conversion shall be at least equal to or greater than seven hundred fifty dollars per unit. (one point)
 - b. In R-3 and downtown area projects, converts existing lighting to LED lights at a ratio of two light conversions per dwelling unit. (two points)
4. General community benefit.
- a. Provides for dedication and/or improvement of extensions to existing streets and shared parking lots outside of the project boundaries. The cost of the offered dedication and public improvements shall be equal to or greater than one thousand one hundred dollars per unit per point. Should the offered dedication and improvements be redundant to those within the public facilities (PF) section, points will be awarded here first and then any excess applied to the PF section. For example, if one thousand five hundred dollars per unit of improvements were recorded in this section and in PF, one point

would be awarded here and four hundred dollars per unit would be available to add to any non-redundant improvements made under the PF or schools categories.

Projects which offer to complete adjacent or nearby off-site public facility improvements which were committed to be installed by another project under a previously approved application will not receive points for the same commitment. (up to two points)

Note: For the general community benefit section, emphasis will be placed on improvements for dedicated extensions of existing streets within one mile of the project.

5. Downtown area benefit. Projects located in the downtown area may be awarded up to four points based on the following criteria:
 - a. The project provides ground floor mid-block pedestrian connections through large buildings. For the criterion to apply, the pedestrian connection must be continuous and unrestricted during business hours. (one point)
 - b. The main project entries are oriented directly to the public streets to encourage connections through the existing network of sidewalks. (one point)
 - c. The project closes gaps in the pedestrian and bicycle network through replacement or extension of sidewalks, pathways or bike lanes beyond the project frontage. (one point)
 - d. The project provides bicycle parking with racks at convenient locations near building entrances and bus stops. (one point)

Proposed developments must be assigned a minimum passing score of seven points, or a minimum of five points for downtown area projects under this category in order to qualify for building allotments.

6. In R-3 or higher density mixed use projects, each entry from a public street has a detailed and lighted circulation map to aid emergency response vehicles and delivery vehicles to easily locate units. (one point)

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 21, 2002; Ord. 1517 N.S. § 17, 2001; Ord. 1486 N.S. §§ 13 & 14, 2000; Ord. 1438 N.S. § 12, 1999; Ord. 1346 N.S. § 14, 1997; Ord. 1228 N.S. § 11, 1995; Ord. 1179

N.S. § 14, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.310 - Safety and security.

- A. Site and architectural design quality as indicated by the amount of private safety and security provided in the design of the individual structures. (ten points)
 - 1. Residential structures should create the feeling of comfort and peace of mind by using design and materials that increase safety and security. The lighting, glazing and positioning of non-private or semi-private areas and access areas must facilitate their natural surveillance by residents and formal authorities.
- B. Standards and criteria.
 - 1. Enhances safety and security as follows:
 - a. Install a fire proof safe that is bolted to the floor or in another suitable location. (one point)
 - b. Provides a first aid kit with a poison control document to be installed in the kitchen area of the home. (one-half point)
 - c. Any other fire protection device or construction technique approved by the fire chief not already required according to the California Fire Code. (one-half point)
 - d. Provide outdoor lighting on all units/buildings to meet all police department specifications. Outdoor lighting is required by the California Electric Code, CEC and further defined in Chapter 18 of the MHMC. To enhance security, a motion detection light that meets all police department specifications shall be installed in the back side of each unit. (one-half point)
 - e. For multi-family projects, pedestrian scaled lighting should be located along walkways and common areas. Lighting bollards should not be used. (one point)
 - f. Install illuminated address numbers for each unit and painted reflective curb numbers where possible. (one point)

Note: Application must stipulate that the reflective painted curb addresses will be maintained by a homeowners association. A small or micro project will receive one point without the requirement for painted curb addresses.

- g. Any other intrusion protection device or construction technique communicated to and approved by the police department to increase safety and security. (one-half point)
 - h. All large usable common areas and parks will be provided with on-site (or modified electrolier) lighting to a minimum one and one-half foot-candles. (two points)
 - i. For multi-family projects, long-term enclosed and covered bicycle parking, including bicycle lockers or enclosed garages will be provided at a ratio of ten percent of the required parking for residential units (guest parking included) for at least fifty percent of all second story units (multi-family projects only). (two points)
 - j. Project will install security cameras to monitor all common areas such as laundry rooms, parking areas, recreation halls or similar areas. Camera system should be connected to a DVR with the ability to maintain recordings for a minimum of seven days. (one point)
 - k. All pathways and pedestrian walkways will be illuminated with a minimum of one foot candle to ensure safe nighttime conditions. (one point)
2. For single-family projects, the following principles of crime prevention through environmental design (CPTED) will be incorporated in the development design (one point):
- a. Natural surveillance—The concept of "eyes on the street" which promotes features that maximize the visibility of people, parking and entrances.
 - b. Territorial reinforcement—The concept which promotes features such as landscape plantings, paving designs, and gateway treatments that define property lines and distinguish private space from public space.
 - c. Natural access control—This concept promotes natural access control by designing streets, walkways and entrances to clearly indicate public routes and discourage access to private areas.

For multi-family projects the following CPTED principles will be incorporated in the development design (one point):

- a. Windows and entries should be placed to natural surveillance of the site. Site lines from dwelling units to the parking area(s) should be provided.
 - b. Open spaces, courtyards, circulation corridors and individual dwelling unit entrances should be designed to be visible from as many dwelling units as possible. Enclosure of private open space should not prevent common open space surveillance by residents.
 - c. If management office is located on site, the office should be centrally located in a visible location. Community and/or meeting rooms and other amenities should also be located in close proximity to other heavily used areas.
3. Lockable hardware on all side yard or patio gates.
Note: Gas and electric metering equipment must be located in front of lockable yards or outside of patio or gated areas. (one-half point)
4. Installation of an intrusion, fire alarm and heat detector system to be monitored by a central station, or to include auto dialer which meets city ordinance. For multi-family projects, points will be awarded for a fire alarm system without central monitoring and no intrusion system. (two points; three points when the developer includes a one-year monitoring contract with the home purchase and commits to deliver to the homeowner a city specific responsible listing card that the city police department can keep on file)
5. Neighborhood emergency preparedness program administered through a homeowners association or central property management. Emergency preparedness program shall be instituted within one hundred eighty days of the first homeowners taking occupancy. Within one hundred eighty days, the homeowner association shall contact the Morgan Hill Office of Emergency Services to schedule a resident meeting to assist community/neighborhood development of an emergency preparedness program. (one point)
6. The developer shall include provisions in the covenants, conditions and restrictions (CC&Rs) of the homeowner's association which directs a board representative to a designated officer of the City of Morgan Hill Police Department Community Service Officer to enact a neighborhood watch program to be established as part

of the first phase of the development. Neighborhood watch program shall be established within one hundred twenty days of the first five homeowners taking occupancy. For rental projects, neighborhood watch programs shall be administered through a central property management company. Neighborhood watch program for rental projects shall be established ninety days from issuance of certificate of occupancy. (one point, criterion does not apply to small or micro projects)

Note: Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1677 N.S. § 1 (part), 2004; Ord 1575 N.S. § 22, 2002; Ord. 1517 N.S. § 18, 2001; Ord. 1486 N.S. § 15, 2000; Ord. 1346 N.S. § 15, 1997; Ord. 1228 N.S. § 12, 1995; Ord. 1179 N.S. § 15, 1994; Ord. 1049 N.S. § 2, 1991; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.320 - Landscaping, screening and color.

- A. Site and architectural design quality as indicated by the amount and character of landscaping and screening and color of buildings. (ten points)
 - 1. All trees, shrubs, ground cover, walls and fences, mounding, landscape furniture, paths, lighting, etc., should be compatible with the topography and other characteristics of the site, the character of adjacent quality landscaping and the architectural features of adjacent structures. Efficiency in exterior design and landscaping is an important part of the character of a home. A gain can be made in terms of heating and cooling, noise abatement and pest control. The functions of plants should be the basis for their use in environmental design.
- B. Standards and criteria. (maximum ten points)

Note: Custom lots and custom lot developments may receive points in pertinent sections below where landscaping will be provided by the lot owner. This requires development agreement commitments being recorded against each such lot, including a

statement that landscaping requirements must be in place or bonded prior to receiving city approval for occupancy.

1. Uses landscaping techniques that enhance the quality of the site.
 - a. Applicant agrees to provide twenty-four inch box-size trees, including street trees, from a city approved list, with a minimum height of nine feet and a spread of three to four feet. The box-size trees will be provided within the development at a ratio of one box-size tree per ten trees provided with the landscape area to be installed by the developer. The one box size tree per ten trees calculation does not include street trees. (one point)
 - b. Provides sufficient planting around all necessary and appropriate group off-street parking areas (single-family unit driveways not included) to achieve shading and visual screening as viewed from a public street or private street. (one point)
 - c. Varied front yard landscaping plans are installed by the developer. For multi-family projects, this criterion shall apply to varied landscaping installed along the project frontage and for the landscaping installed in front of the buildings in the interior portions of the project. Varied landscaping may mean different accent trees in various areas and/or themed landscaping in courtyards. (one point)
 - d. Project provides or conforms to a street tree master plan that addresses tree selection, location of trees on each lot and, proper tree spacing and preservation of any existing trees (excluding orchard trees). All lots exceeding sixty feet in width must be planted with multiple street trees unless infeasible because of above ground utilities. (one point)
2. Landscape planting and irrigation systems are designed to conserve water usage.
 - a. The landscape to be installed by the developer will include pervious hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area. Pedestrian walkways across circulation aisles are not included in this item. (one point)
 - b. All other planting in non-turf areas shall be composed of low to moderate water use plants identified in Water Use Classification of Landscape Species Guide or East Bay Municipal Utilities District's Plants and Landscape for

Summer-Dry Climates of the San Francisco Bay Region or other species, including native plants, that are well adapted to the climate of the region and require minimal water once established. (one point)

- c. Project connects to an existing water supply separate from the city's water system (e.g., an off-site irrigation well) for landscape irrigation. Applies to small and micro projects only. (one point)
- 3. Landscaping is installed on all areas (i.e. common areas and open space areas) visible from public and private rights-of-way. The use of wildflower mix, hydroseeding, or areas predominantly covered in mulch or mulch-type groundcover will not achieve commitment. (one point)
- 4. Project site drainage may be reduced by first-flush underground retention system, with testing results demonstrating sufficient percolation which is greater than six-tenths of an inch per minute. Alternately, project uses pervious pavement in all open parking lots, driveways and sidewalk areas to minimize drainage runoff. Project must be located in an area of rapid soil permeability for pervious pavement criterion to apply. (two points)
- 5. Downtown Area project uses building color to enhance architectural details and add to the visual interest of facades. (one point)

(Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 22, 2002; Ord. 1517 N.S. § 19, 2001; Ord. 1438 N.S. § 13, 1999; Ord. 1346 N.S. § 16, 1997; Ord. 1304 N.S. § 3, 1996; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.330 - Natural and environmental features.

- A. Site design quality in adapting the development to the setting, including the preservation of vegetation, trees, natural terrain and other natural and environmental features. (ten points)
 - 1. The proposed development should always adapt itself to the environment rather than vice-versa. The residences and supportive infrastructure shall be designed with nature in mind, by following the natural form of the land, preserving unique

natural features and environmentally sensitive areas, arranging building sites around existing trees and "blending in" the development to the surroundings.

2. A high quality project is one that uses what is available but also improves the total environment for the people who live within and nearby.

B. Standards and criteria.

1. The proposed development utilizes environmental preservation techniques.
 - a. Foundation types are designed to minimize grading of the site and road alignment follows and maintains existing ground elevation to the greatest extent possible. Minimal grading is considered a fill or excavation of less than two feet in depth (four feet is acceptable for detention ponds and three feet is acceptable as required fill for flood protection) and restricts the amount of runoff caused by impervious surfaces and the covering of land area suitable for percolation or uses bio-swales, where applicable. (one point)
2. The proposed development will install the following:
 - a. Install solar water heating system properly sized to meet fifty percent of the anticipated hot water demand for home. (three points)
 - b. Install solar photovoltaic panels to offset fifty percent of anticipated electrical energy demand of residential unit. (four points)
 - c. Install solar photovoltaic panels to offset sixty percent of anticipated electrical energy demand of residential unit. (five points)
 - d. Install solar photovoltaic panels to offset seventy percent of energy demand of residential unit. (six points)
 - e. Install solar photovoltaic panels to offset eighty percent of anticipated electrical energy demand of residential unit. (seven points)
 - f. Install solar photovoltaic panels to offset fifty percent of the anticipated energy demand of the clubhouse facility. (two points)
 - g. Building performance exceeds Title 24. (one point for every five percent greater than Title 24 up to a maximum of five points)
 - h. Additional Build it Green (BIG) Points. (one point for every ten BIG points greater than seventy points up to a maximum of five points) For multi-family residential projects (one point for every seven BIG points greater than seventy points up to a maximum of seven points.)

- i. For multi-family projects provides one two hundred twenty-volt outlet in a garage for the residential units for electric vehicle charging. One point for a two hundred twenty-volt outlet in fifteen percent of the garages; two points for a two hundred twenty-volt outlet thirty percent of the garages and three points for a project that provides one two hundred twenty-volt outlet in a garage for sixty percent of the residential units. (up to three points)

- j. Any community pool utilizes:

1. Solar water heating (one point).
2. Pool system with salt-chlorinator (one point).

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1517 N.S. § 20, 2001; Ord. 1438 § 14, 1999; Ord. 1404 N.S. § 12, 1998; Ord. 1346 N.S. §§ 17, 18, 1997; Ord. 1228 N.S. § 13, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

(Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

18.78.335 - Livable communities.

- A. The extent to which the proposed development exhibits overall project excellence and/or incorporates or otherwise embodies the concept of livable communities, such as proximity to transit, pedestrian orientation, efficiency of street system, mixed use, infill and maximization of use of existing infrastructure. (ten points)
- B. Standards and criteria.

1. Proposed project phase(s) are subjectively judged by the planning commission to be superior with respect to overall project excellence (two points when awarded by a super majority of the voting members, or one point when awarded by a majority of the voting members of the planning commission) The planning commission will be reviewing and considering the design component of the project.

Note (1): The determination of project excellence will include input from the building and planning divisions and the public works department regarding the performance of the developer during any previous building permit processes. The

timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than two plan checks and/or projects which submit for building permits prior to approval by the community development director and prior to application for final map approval. No recommendation will be provided for developers or applicants who have not previously built in the city.

Note (2): City staff may award up to two points under this criterion when it is determined that project changes proposed as part of the city's entitlement process will improve the overall project excellence.

2. Encourages the use of public transportation:
 - a. In residential areas by constructing bus shelters, benches, reinforced street sections or bus pullout areas and these improvements are located on an approved or planned Valley Transportation Agency (VTA) transit route and accepted by the VTA for maintenance. A letter from the VTA shall be submitted confirming VTA's acceptance and maintenance of the proposed bus stop. For planned bus routes, the VTA letter shall provide confirmation of the future bus route extension. This criterion may apply to a bus stop constructed in the initial or previous phase that would serve subsequent phases of the same development. (up to two points)
 - b. In residential areas by constructing school bus bench and shelter within common area maintained by an HOA at a location approved by the MHUSD. A letter from the MHUSD shall be submitted confirming acceptance of location. If the bench and shelter are constructed within common area of adjoining development a letter from the HOA accepting maintenance shall be submitted at time of application. This criterion may apply to a school bus bench and shelter constructed in the initial or previous phase that would serve subsequent phases of the same development. (one point)
3. Project is located within a quarter mile walking distance of the bus stop or other transit facility (the W. Main/Hale Park and Ride Facility, Caltrain Station or Route 68 regional transit line). (two points; one point if the project is within one-half mile walking distance of the above transit facilities)
- 4.

Project is designed as "vertical mixed use" with retail/commercial on the ground level and residential above. Larger mixed use projects that combine commercial and residential uses will receive maximum points in this category only to the extent that the residential and commercial uses are well integrated with each other, sufficient pedestrian connections between uses exist and parking lots are minimized from the public view. (up to two points)

5. Builds to planned densities. Downtown area projects that build in the upper one third of the allowable density range will be awarded two points; projects that build to the upper fifteen percent of the density range will be awarded three points.
6. Provides architectural variation and differentiation by providing the following for three points (all criteria must be met to receive points):
 - a. Uses porches, balconies, for any area viewed from the public right-of-way or multi-unit courtyards interior to the project on at least twenty five percent of units to promote a neighborhood feel.
 - b. Uses at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc.
 - c. Uses architecture and profiles and massing that conforms and works with the existing surrounding neighborhoods. Applicable only where a project adjoins an existing neighborhood on at least one side or twenty-five percent of the project's frontage.
 - d. Provides a consistent level of architectural relief and detailing on all four building elevations. Where two-story rear and/or side-yard building elevations occur, architectural relief shall include some third dimensional design element such as bay windows, balconies, covered porches, decorative trellis, etc. In addition, each standard trim and base color must represent no more than fifteen percent (project size permitting) of the project.
7. Uses design and layout techniques that give individuals maximum privacy within and outside the homes. Such techniques include the offset of windows between units, alternating outdoor patio areas and entrance and consideration of fence height in relation to grade changes. (one point)
8. For multi-family projects all units have washer and dryers for convenience and safety of residents. (three points)

(Ord. 1887 N.S. § 1, 2008; Ord. 1839 N.S. § 1 (part), 2007; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004)

(Ord. No. 1935 N.S., § 4(Exh. B), 6-3-2009; Ord. No. 2017 N.S., 7-27-2011; Ord. No. 2051 N.S., Exh. A, 8-22-2012; Ord. No. 2082 N.S., § 4, Exh. A, 8-28-2013; Ord. No. 2110 N.S., § 4(Exh. A), 9-17-2014; Ord. No. 2136 N.S., § 1(Exh. A), 5-20-2015)

Article III. - Procedures for Micro Project Competition

18.78.340 - Eligible projects.

An eligible project is any type of residential development consisting of a maximum of six dwelling units. A project must also be located on a site which represents the ultimate or finite development potential of the property. In order to be considered as ultimate development, no further subdivision and/or residential development of the property would be possible pursuant to the general plan and this title. The only exception to this limitation would be the construction of a secondary dwelling unit on a single-family lot.

(Ord. 1887 N.S. § 1, 2008; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. § 23, 2002; Ord. 1397 N.S. § 1, 1998; Ord. 1228 N.S. § 14, 1995; Ord. 1034 § 1 (part), 1991)

18.78.350 - Filing periods.

Applications for development allotment evaluations shall be filed with the community development department no later than twenty-one months prior to the fiscal year of the building allocation or an earlier date as established by the city council.

(Ord. 1887 N.S. § 1, 2008; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1391 N.S. § 1, 1998; Ord. 1228 N.S. § 15, 1995; Ord. 1034 § 1 (part), 1991)

18.78.360 - Planning officers' review.

The planning officer shall review each application to determine whether or not the proposed development conforms to the city's general plan, Title 17 and this title's requirements. If the planning officer determines that a proposed development does not

conform to the general plan, Title 17 and this title, the application shall be rejected. If the application is rejected, an applicant may appeal the planning officer's determination in the manner prescribed in Section 18.78.100(B) of this chapter.

(Ord. 1887 N.S. § 1, 2008; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1034 § 1 (part), 1991)

18.78.370 - Evaluation—Standards and criteria.

- A. Projects will be evaluated according to the standards and criteria contained in Sections 18.78.200 through 18.78.330 of this chapter.
- B. In order to be eligible for building allotments, a project must receive at least seven and a half points in Part 1 and one hundred fifty points in Part 2 of the allotment evaluation. Those that fail to receive a minimum passing score will have the opportunity to improve their designs and reapply during the next competition.
- C. To provide a more streamlined process, each micro project application shall be evaluated by the planning officer. The Part 1 criteria shall be applied in the manner consistent with the provisions contained in Section 18.78.200 of this chapter. However, under Part 2 of the evaluation, each micro project shall be assigned the following minimum scores:

Category	Minimum Score
Schools	<u>16</u>
Open space	<u>12</u>
Orderly and contiguous	2
Public facilities	5
Parks and paths	5

Housing needs	8
Housing types	<u>12</u>
Quality of construction	8
Lot layout and orientation	9
Circulation efficiency	8
Safety and security	5
Landscaping	7
Natural and environmental	7
Livable communities	5
Total	109

- D. The planning officer shall examine each proposed development and shall rate each development by the assignment of no more than the maximum number of points allowable on each of the following categories: schools, open space, orderly and contiguous, public facilities, parks and paths, housing needs, quality of construction

and safety and security; and livable communities. The difference between the minimum score provided above, and the maximum score assigned in each of the aforementioned categories, shall determine a project's rating and eligibility for building allotments. In the event that two or more projects receive an equal number of points, the planning commission shall rank each project receiving a tie score to determine which project(s) are eligible to receive the building allotment.

- E. The planning commission shall review the planning officer's evaluation when the number of residential units in proposed developments exceeds the number of allotments authorized for the competition.

(Ord. 1887 N.S. § 1, 2008; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1304 N.S. § 4, 1996; Ord. 1034 § 1 (part), 1991)

(Ord. No. 1943 N.S., § 1(Exh. A), 6-24-2009)

18.78.380 - Award of allotments.

- A. Proposed developments which have received a minimum of one hundred fifty points under Section 18.78.120 may be awarded an allotment for the following fiscal year. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation exceed the numerical limits established by the city council, the available allotments shall be awarded by the planning commission on the basis of the number of points received in Section 18.78.120 starting with the proposed developments receiving the most evaluation points and proceeding in order down the list until the numerical limit established by the council has been reached. Where allotments are made on the basis of a comparative standing on the list, any applicant who has received the required minimum number of points, but who is not high enough on the list to receive a development allotment, may appeal the matter of allotment evaluation to the city council.
- B. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation is less than the numerical limits established by the city council, the available allotments shall be awarded by the planning officer in order of applications received. Any unused

allocations shall be awarded by the planning commission to on going or next in line projects in other competition categories provided the unused allocation is awarded no later than sixteen months prior to the fiscal year of the building allocation.

(Ord. 1887 N.S. § 1, 2008: Ord. 1731 N.S. Exh. A (part), 2005: Ord. 1677 N.S. § 1 (part), 2004: Ord. 1391 N.S. § 2, 1998: Ord. 1228 N.S. § 16, 1995: Ord. 1034 § 1 (part), 1991)

18.78.390 - Distribution of allotments.

The total allotments shall be distributed on the basis of points received and without regard to any particular geographical distribution. A final determination on the distribution of allotments shall be approved by the city council prior to the competition.

(Ord. 1887 N.S. § 1, 2008: Ord. 1731 N.S. Exh. A (part), 2005: Ord. 1677 N.S. § 1 (part), 2004: Ord. 1228 N.S. § 17, 1995: Ord. 1034 § 1 (part), 1991)

18.78.400 - Appeal procedure.

- A. An applicant may appeal the planning officer's evaluation to the planning commission, or the planning commission's evaluation to the city council by filing a written notice of appeal with the community development department within fifteen days after the notice of evaluation has been mailed as described in Section 18.78.125(A).
- B. In the event an appeal of the planning officer's evaluation is filed, the planning officer shall place the matter on the next available agenda for a regular planning commission meeting. The planning commission shall consider the appeal at such regular meeting at which time the commission will hear the applicant or his representative and such other persons as may be able to assist the commission in the determination of the matter on appeal. The commission may affirm or modify the allotment evaluation. The planning commission's evaluation may be appealed to the city council in the manner prescribed under Section 18.78.130 of this chapter.

(Ord. 1887 N.S. § 1, 2008: Ord. 1731 N.S. Exh. A (part), 2005: Ord. 1677 N.S. § 1 (part), 2004: Ord. 1034 § 1 (part), 1991)

18.78.410 - Development allotment application.

- A. An application for a development allotment shall be made to the community development department on a form provided by the city. Such application shall contain the following information and be accompanied by the documents:
1. Uniform Application.
 - a. Five sets of submittal plans,
 - b. Current title report,
 - c. Filing fees;
 2. Site Development and Landscape Plans.
 - a. Scale, engineering scale not to exceed one inch equals forty feet on twenty-four-inch by thirty-six-inch sheet. Also provide a reduced size copy on eleven-inch by seventeen-inch size sheet attached to the project narrative,
 - b. Small inset vicinity map to show the relationship of the proposed development to adjacent development, the surrounding area and the city,
 - c. A plan showing general lot layout, general lot sizes, typical lot dimensions, general notes and information; show storm drainage routes and lines, and areas for storm water retention,
 - d. Include street alignments showing coordination with city streets and proposed rights-of-way; the plan should also show proposed public works improvements,
 - e. Show proposed planting areas, park areas and any other proposed uses,
 - f. Include the name, address and telephone number of the applicant, architect and/or engineer; also a graphic scale and north arrow;
 3. Preliminary Architectural Plans.
 - a. Scale: architectural drawings should be included at eleven-inch by seventeen-inch size sheet(s) attached to project narrative,
 - b. Provide front elevations and range of possible square footage for all models within the project,
 - c. Indicate on the plans the type of housing provided, i.e., multifamily, BMR, senior, single-family, etc,
 - d. Provide illustrative building elevations showing all sides of one typical model and front elevations of other buildings within the proposed development;
 - 4.

Project Narrative Questionnaire: submit three copies of the completed project narrative questionnaire;

5. Plan Preparation Guidelines.

- a. All plans shall be drawn on uniform sheets no greater than twenty-four inches by thirty-six inches, or as approved by the community development director prior to submittal,
- b. All plans shall be stapled together along the left margin,
- c. All plans shall be folded into one-eighth sections or folded in such a manner that the size does not exceed nine inches by twelve inches,
- d. All plans shall be clear, legible and accurately scaled.

B. Each application shall be accompanied by a reasonable fee set by the city council as prescribed in Section 18.78.090(B) of this chapter.

(Ord. 1887 N.S. § 1, 2008; Ord. 1731 N.S. Exh. A (part), 2005; Ord. 1677 N.S. § 1 (part), 2004; Ord. 1391 N.S. § 3, 1998; Ord. 1034 § 1 (part), 1991)